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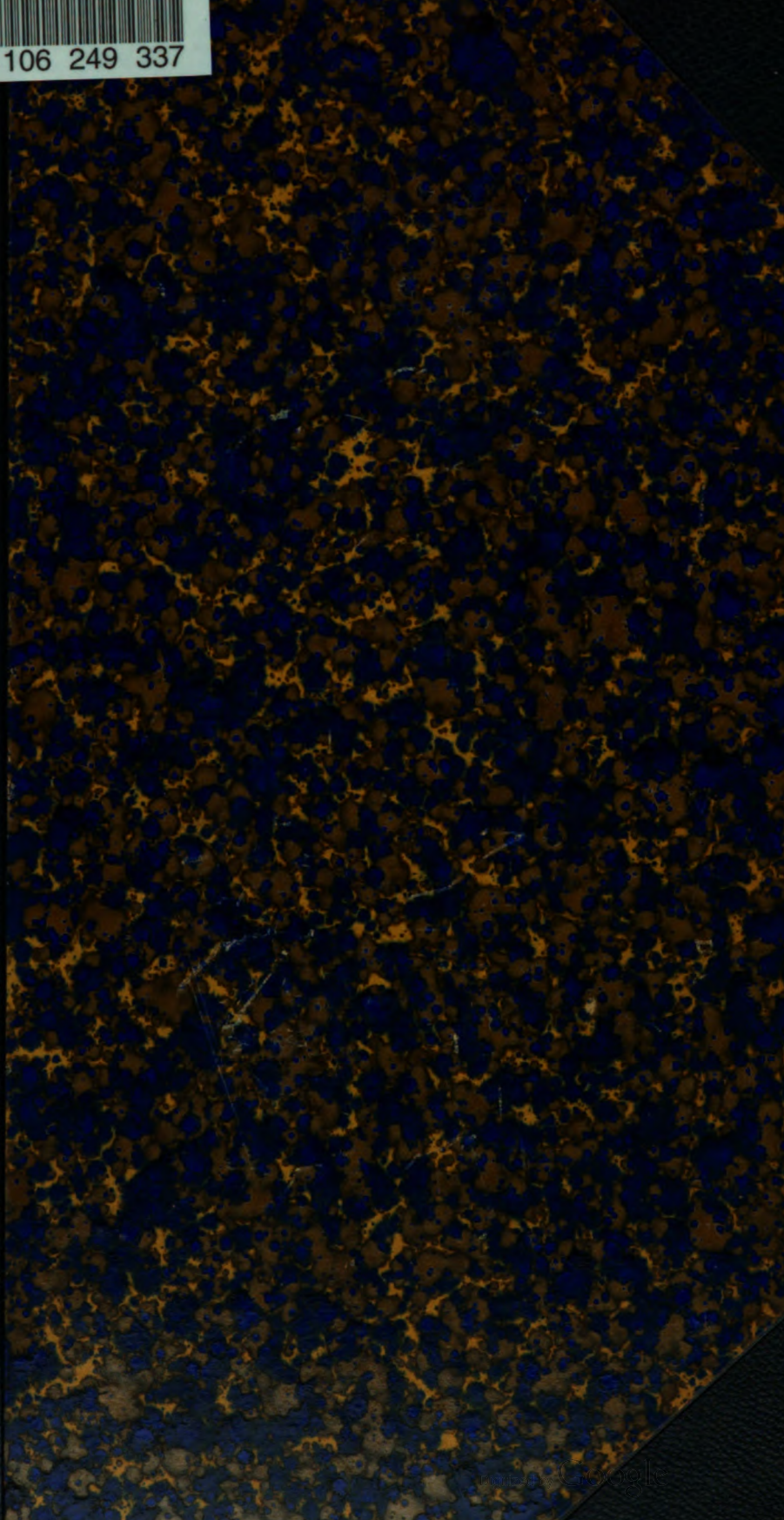
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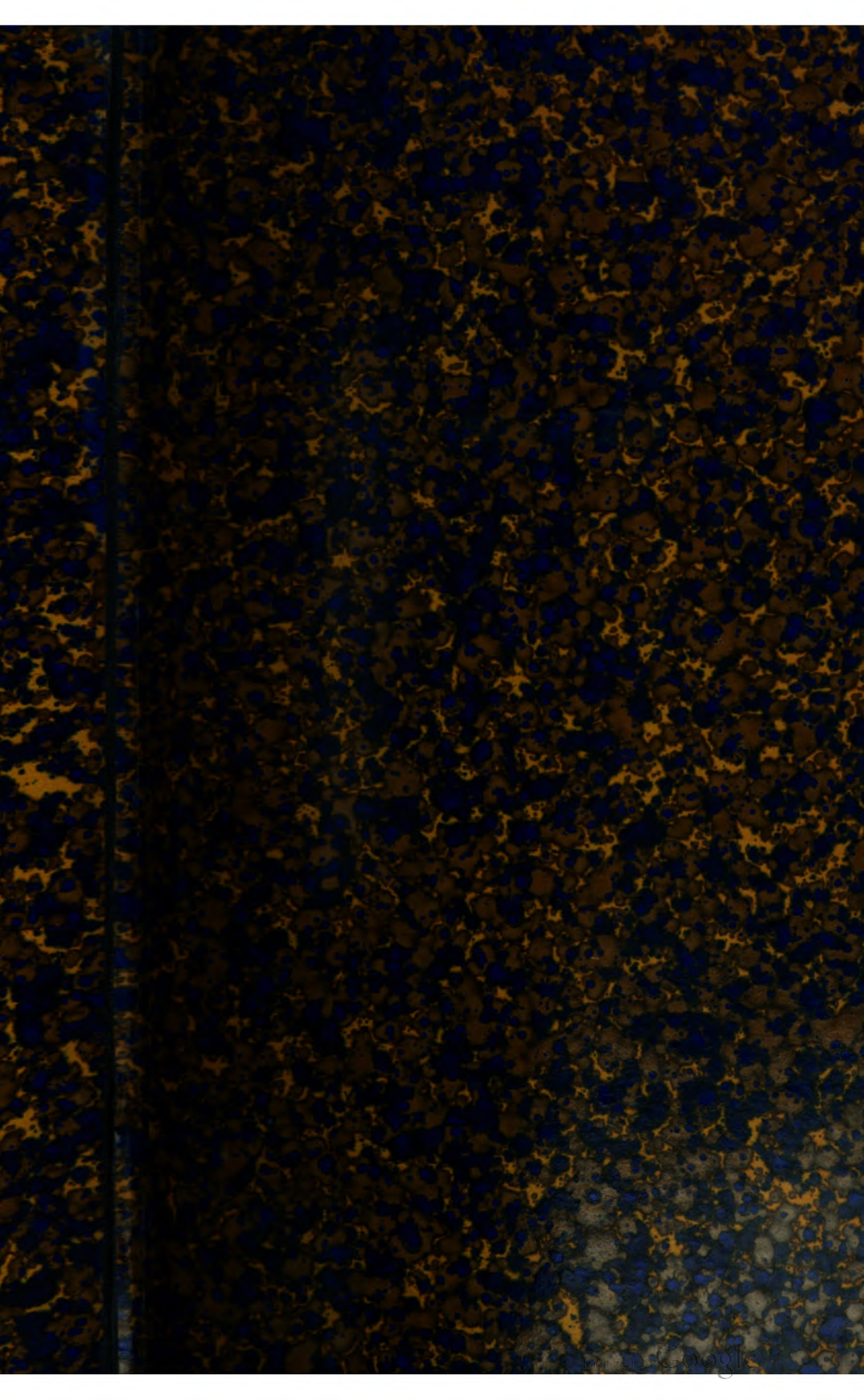






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# POLITICAL SCIENCE <sup>c/</sup> QUARTERLY

A REVIEW DEVOTED TO THE HISTORICAL STATISTICAL  
AND COMPARATIVE STUDY OF POLITICS  
ECONOMICS AND PUBLIC LAW

EDITED BY  
THE FACULTY OF POLITICAL SCIENCE  
OF COLUMBIA UNIVERSITY

VOLUME TWENTY-THIRD

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GINN AND COMPANY  
NEW YORK, BOSTON, CHICAGO, U.S.A., AND LONDON  
BERLIN: PUTTKAMMER AND MÜHLBRECHT  
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# POLITICAL SCIENCE QUARTERLY

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## THE PRELIMINARIES TO THE LABOR WAR IN COLORADO

THOSE who have occasion to examine the labor press of the United States are aware that the recent industrial difficulties in the mining regions of the Far West are regarded as the most important in the history of economic conflicts in America. Though most of these papers are obscure and their opinions lightly esteemed by the great dailies and magazines of the country, their combined circulation mounts into the millions, and they reach the most active and highly organized workingmen in the nation. Their general unanimity in unsparing criticism of the capitalists and government officials involved in the conflict over labor legislation and bargaining disputes in Colorado and Idaho must be recognized, therefore, as a matter of high social significance, whatever may be one's opinion as to the merits of the case. How serious this conflict

Bibliographical Note: *The Miner's Magazine* (official organ of the Western Federation of Miners); B. M. Rastall, *The Cripple Creek Strike of 1893*; Turner, "The Significance of the Frontier in American History," Report of the American Historical Association, 1893, pp. 199-227; "Contributions of the West to American Democracy," in the *Atlantic Monthly*, January, 1903; Biennial Reports of the Colorado Bureau of Labor Statistics; Report on the Labor Unions of the Cœur d'Alene Country, (Wardner, Idaho, 1899), Senate Document, number 142, 56th Congress, 1st Session; Senate Document, number 122, 58th Congress, 3rd Session; Senate Documents numbers 25 and 42, 56th Congress, 1st Session; Warne, "The Miners Union," in *Annals of the American Academy of Political Science*, vol. xxv, pp. 67-86; Constitution and By-Laws of the Western Federation of Miners, 1906; Proceedings of the Annual Conventions of the Western Federation of Miners; Reports of the Industrial Commission, vol. xii; House Report, number 1999, 56th Congress, 1st Session; Senate Document, number 209, 57th Congress, 2d Session; Mills, "Economic Struggle in Colorado," in *Arena*, October, 1906; Friedman, *The Pinkerton Labor Spy*.

really is, what influence it will have on the political movements of the future, how deep and permanent the class feeling aroused actually is, it is of course impossible to tell; but the fact remains that the student of social politics cannot afford to neglect the situation or to accept the *ex parte* statements of men even in high places as conclusive.

Of course it would be unscientific to assume that a correct and final judgment may now be rendered on each of the innumerable controversial questions which have arisen in course of the conflict. Doubtless no such desirable judgment can ever be reached, owing to the character of western life and the possibilities and probabilities of innumerable secret operations in the organizations of miners, employers and citizens. Nevertheless a calm consideration of even some of the indisputable facts that are available on the earlier aspects of the struggle will help to saner opinions than those usually expressed in the passing newspaper notices or in pamphlets.

At the very beginning it must be admitted that the situation in the mining industries of the Rocky Mountains presents many puzzling features, due in a large measure to the conflicting nature of the available sources of information, the conscious or unconscious misrepresentation which everywhere abounds and the passion with which statements are made by partisans on both sides. The struggle has been so long and so bitter and has been so persistently drawn into politics that almost everybody has come to a final conviction on one side or the other. When this happy but perhaps unfortunate state of mind is reached even by men of the highest integrity, it is evident that their utterances, though clothed in the form of an official proclamation, judicial decision or "frank statement" of facts, bear the impress of the conflict.

In fact practically everyone in the regions involved is ranged on one side or the other. On one hand we see united the mine owners and others whose economic interests coincide or are thought to coincide with those of large properties and business in general; a considerable part of the bench and bar; most of the higher state officials and members of the legislatures; ministers of religion, to a great extent, and practically all of the

important newspapers not connected with the labor movement. As the labor leaders are fond of putting it, "the entire capitalist class with its dependents are against us." This is undoubtedly a formidable combination of the most influential and conservative elements of the population; it has been able to call to its support the state and federal military forces for the protection of property and the maintenance of order; and it has its interpretation of facts—already grown traditional and repeated daily without new investigations—which, if accepted at its own valuation, would furnish just reason for condemning altogether the miners' organization and its methods.

On the other hand may be seen labor, standing practically as a unit where organized and supported to a certain extent by workingmen outside of the unions; some small business men dependent on the miners' trade, and scattered reinforcements from other parts of the population. This group also has its interpretation of the events in the conflict, which likewise passes as current coin. So far as the political parties are concerned, the Republicans have staunchly supported the capitalist group, while the Democrats, Populists and Socialists have stood for the real or alleged interests of labor and unionism—at least during election periods.

Each side has taken a decided position and has an ever-growing literature of its own purporting to tell the truth. The popular view held by the first group was summed up by the late Governor Steunenberg of Idaho, in his reference to the locals of the Western Federation of Miners in the Coeur d'Alene district: "These organizations were originally undoubtedly legal and proper and were organized for a commendable purpose; but they have been taken possession of by men who utterly ignore all law, who are anarchists in belief and practice, and by them transformed into criminal organizations."<sup>1</sup> A similar view was expressed by Governor James H. Peabody concerning the Federation: "It is in fact a matter of common knowledge in Colorado that for ten years this Federation has stopped at nothing to accomplish its purpose—threats, intimi-

<sup>1</sup> Senate Document no. 142, p. 68, 56th Congress, 1st session.



dation, assaults, dynamite outrages, murders have characterized its policy. The catalogue of its crimes affrights humanity."<sup>1</sup>

Whatever weight may be given to these high official utterances, it is an undoubted fact that there is a very considerable and respectable element in the population of the country as a whole, and especially in the western states, which maintains very different views. The commissioner of labor in Colorado, for example, says in an official report: "The Western Federation of Miners has been especially fortunate in the selection of its officials. They are men who, with self-sacrificing devotion to the cause to which the order was dedicated, have worked unceasingly to make it strong and powerful."<sup>2</sup> He also gives special praise to Messrs. Boyce, Haywood, and Moyer. The Commissioner of Agriculture, Labor and Industry of Montana, in response to inquiries addressed to him, writes of the Federation that "it is a strong organization in Montana and one of the best conducted of all labor organizations. A good deal of unjust criticism has come to the order on account of the Colorado troubles and the final arrest of the officers who are now in Idaho awaiting trial."<sup>3</sup> Similar evidence from men of unquestioned integrity might be procured in almost any amount. Such statements on both sides are not given here as evidence, however, but merely to indicate the highly controversial character of the problems at issue.

Before attempting to present some of the concrete events which have been the source of all this controversy, it will be necessary to call attention to certain fundamental facts in the situation that must affect any sane opinion. Men do not act very much on abstract principles, but rather under the pressure of concrete environment bearing upon them at the myriad points of life's contact with reality. Therefore the labor troubles in the West can be truly understood only in the light of the western social conditions.

The first fundamental fact is that these industrial conflicts

<sup>1</sup> Senate Document no. 122, p. 298, 58th Congress, 3rd session.

<sup>2</sup> Eighth Biennial Report of the Colorado Bureau of Labor Statistics, p. 345.

<sup>3</sup> Letter to the writer from J. A. Ferguson, Commissioner.

have been waged on the recent frontier of America, the true significance of which has received a scientific appreciation only from the hands of Professor Frederick J. Turner. In one of the most important brief contributions to American history, he said of the frontier:

So long as free land exists, the opportunity for a competency exists and economic power secures political power. But the democracy born of free land, strong in selfishness and individualism, intolerant of administrative experience and education, and pressing individual liberty beyond its proper bounds, has its dangers as well as its benefits. . . . Now, four centuries after the discovery of America . . . the frontier has gone and with its going closed the first period of American history.<sup>1</sup>

The men and the descendants of men who but recently were on the far-flung frontier line are suddenly confronted by the most complex problems of modern industrialism. Whoever is unable or unwilling to see the implications of this fact cannot hope to get at the intimate character of the recent difficulties.

In the second place, the Western Federation of Miners, which has been the leading labor organization in the new industrial conflict for more than a decade, has not only concerned itself with mining difficulties but has championed the cause of workmen generally, thus making itself far more obnoxious to employers at large than any union which confines its activity to disputes in its own trade. The editor of the *Miners' Magazine* says:

In all the mining camps of the West, wherever any craft or trade has been involved in a difficulty with employer or employers, the Western Federation of Miners, being the dominant organization, has always extended a helping hand to other crafts or trades to win their battles. The fact that the Western Federation of Miners has taken a hand in the battles of other crafts and trades for better conditions is the most potent reason why the Western Federation is so generally hated throughout the West by the employers' associations.<sup>2</sup>

<sup>1</sup> "The Significance of the Frontier in American History," in the Report of the American Historical Association, 1893, pp. 199-227.

<sup>2</sup> John M. O'Neill, in a letter to the writer.

Whether this is good trade-union policy or reprehensible from any standpoint need not concern us here; but to aid one another is undoubtedly a privilege which workingmen legally enjoy, and it is a fact of the utmost significance in considering the causes of the intense opposition which the Western Federation of Miners meets everywhere outside of labor circles.

In the third place, the Federation, since its organization at a convention held in Butte, Montana, in May, 1893, has grown so powerful that many employers, and especially corporations with heavily watered stock on which to pay dividends, have felt compelled to devote special attention to checking its operations.<sup>1</sup> Within ten years of its foundation the number of unions in the Federation had grown from fifteen to about two hundred, and the membership in good standing from two thousand to more than forty thousand; and, during the last three years, its increase in strength has been considerable.<sup>2</sup> Its headquarters have been in Denver since 1901, and its membership extends over Arizona, British Columbia, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Montana, Nevada, Oregon, South Dakota, Utah and Washington. Its numbers in its ranks principally metalliferous miners, but includes some coal-miners, smeltermen and engineers. Owing therefore to the extent of the Federation's field of operations and its rapidly growing strength, the mine owners opposed this new organization from the beginning.

As the questions of regulating hours of work in mines, of ventilating shafts, check-weighing and the like have come up for

<sup>1</sup> Labor Disturbances in Colorado, Senate Document, no. 122, 58th Congress, 3rd session, p. 35, *et seq.* John M. O'Neill, editor of the *Miners' Magazine*, writes: "There are now 250 local unions of miners, millmen, and smeltermen belonging to the Western Federation of Miners. The membership in good standing is about 40,000. There are always about fifty per cent of the membership in arrears, or, in other words, sixty days behind in the payment of dues, which leaves them in bad standing. That this 50 per cent are in bad standing is due to the fact that so many lay-offs occur at mines, mills, and smelters throughout the West, and to the fact that the unmarried men among the miners travel a great deal from one camp to another."

<sup>2</sup> Ninth Biennial Report of the Colorado Bureau of Labor Statistics. The Tenth Biennial Report for 1905-1906 has not yet appeared (May, 1907), the delay being caused, as I am informed, by the opposition of certain corporations which do not wish a report from the present commissioner.

practical legislation, the miners naturally enough have voted for candidates offering the most liberal promises on behalf of labor. Though the political allegiance of the miners as individuals has varied, the majority have in recent years voted for Democratic candidates for office and especially for the men who were thought to be friendly to labor interests. Until the recent disturbances, the Socialist party has never polled a very large vote in Idaho or Colorado, although it has had a ticket in the field, in Colorado, since 1894. Even in the Cripple Creek district, in the year before the beginning of the great strikes (1902), only sixty-seven votes were cast for the Socialist candidates, although nearly three thousand members of the Federation were employed there.

Nevertheless, the leading officials and workers in the Federation have been Socialists; they have advocated socialist propaganda, especially among the miners; and they have labored to commit the Federation to socialist doctrines, notwithstanding the fact that there is nothing in the constitution of the organization essentially socialistic. In his presidential address delivered at the Denver convention, Mr. Edward Boyce said:

There are two classes of people in the world: one is composed of the men and women who produce all; the other is composed of men and women who produce nothing but live in luxury upon the wealth produced by others. Realizing this to be a fact, the time has arrived when this organization should array itself upon the side of the producers and advise its members to take political action and work for the adoption of those principles that are destined to free the people from the grasp of the privileged classes. It was the cry of the politicians and ruling classes in all ages not to disturb them in the possession of their ill-gotten gain, and we hear that cry ringing more forcibly in our ears every day. . . . They advise the workingman not to take political action lest he might wake to his strength and power to improve his condition. It has always been the aim of the ruling classes to divide the laboring people into two hostile camps. . . . The most important action which you can take at this convention is to advise the members of your organization to adopt the principles of socialism without equivocation.<sup>1</sup>

<sup>1</sup> Official Proceedings of the Tenth Annual Convention, president's address; Eighth Biennial Report of the Colorado Bureau of Labor Statistics, pp. 343, 344.

After long discussion and active opposition on the part of the minority, the tenth convention adopted the following resolution:

We, the tenth annual convention of the Western Federation of Miners, do declare for a policy of independent political action, and do advise and recommend the adoption of the platform of the Socialist party of America by the locals of the Federation in conjunction with a vigorous policy of education along lines of political economy.<sup>1</sup>

Since 1904 the Socialist vote in Colorado has greatly increased, mainly on account of the labors of the Western Federation of Miners. In that state Debs received 4304 votes, or 1.76 per cent of the votes cast for presidential electors in 1904, while Haywood (the Socialist candidate for governor) received 16,938 votes in 1906, or 8.65 per cent of the total.

The socialistic tendency of the Federation is, therefore, a most important factor in strengthening the opposition received from the public at large. However sound the arguments which may be brought against socialism by intelligent men who have investigated its tenets scientifically, it remains a fact that most of the opposition to socialism is wholly uncritical and unintelligent. Socialism to the average American means anarchy, revolution, desecration of the home, and a hundred other phases of disorder and destruction. As a result, many persons, ignoring the fact that terrible riots have often accompanied labor conflicts even where socialists have had no part in them, attribute the recent disorders in the West to the socialistic element in the Federation. Nevertheless, it must be admitted by every impartial student that, however wise or unwise the action of the Federation in committing itself to socialism may be, there is nothing in the laws or spirit of American government that denies workingmen the right to take the socialist view of their interests.

It was under these circumstances that there began in Colorado a contest for an eight-hour mining law, in connection with which arose one of the most desperate labor struggles in American history. Eight hours' work in mines was long urged by the

<sup>1</sup>At each succeeding convention similar resolutions have been adopted, so that the policy is now strongly entrenched.



Federation as the maximum day, and, in several contests, it was recognized by employers;<sup>1</sup> but in some mines and, more commonly, in smelters and ore-reduction works, the hours often ran as high as twelve per day. The Federation accordingly organized a movement for an eight-hour day, to apply not only to miners and reducers of precious metals but to coal miners and employees in blast furnaces. In this movement the Federation was supported by the United Mine Workers of America and by organized labor generally throughout the state.

As early as 1895 an eight-hour law was presented to the tenth General Assembly of Colorado; but, when the project was referred to the state supreme court, the legislature was informed that "an act such as is proposed would be manifestly in violation of the constitutional inhibition against class legislation." The bill was thereupon dropped.

Three years later a combination of Democrats, Populists and Teller Silver-Republicans elected as governor Charles H. Thomas, who had pledged himself to an eight-hour bill. The twelfth General Assembly, on the initiative of a labor member in the lower house, took up the consideration of such a law; and, in March, the measure was passed, receiving the governor's signature on the sixth of that month and going into effect on June 15 (1899). The bill provided that the period of employment in all underground mines or workings and in smelters and all other institutions for the reduction or refining of ores or metals should be eight hours per day, except in cases of emergency where life or property are in imminent danger. With the exception of the specified penalties provided for violations, this bill was an exact copy of the Utah bill which had been sustained by the Utah and United States supreme courts.<sup>2</sup>

The Utah court had held that such a law did not cause discrimination in favor of a class, because it was not an instance of "discriminations which are open to objection," as would

<sup>1</sup> Rastall, *The Cripple Creek Strike of 1893*; J. W. Mills, "The Economic Struggle in Colorado," *Arena*, October, 1906.

<sup>2</sup> *In re Eight-Hour Bill*, 21 Colorado, 29.

<sup>3</sup> Seventh Biennial Report of the Colorado Bureau of Labor Statistics, pp. 126-129.

be the case "where persons engaged in the same business are subject to different restrictions or are held entitled to different privileges under the same conditions." The court took the position that the conditions in these occupations, especially those of a sanitary nature, furnished ample justification for the act.<sup>1</sup> The federal court treated the Utah law as a valid exercise of the police powers of the state.<sup>2</sup>

It was therefore hoped, in Colorado, that the state court, on mature deliberation, would, in view of these two decisions, uphold the validity of the new law. Indeed the law does not seem to have met with very active opposition from the mine-owners after it had gone into operation, for a large number had complied with its provisions before its enactment. But the American Smelting and Refining Company, popularly known as the "American Smelter Trust," was directly affected on a large scale, and it determined to test the constitutionality in the supreme court of the state. The plaintiffs averred that the law in question was in violation of the bill of rights of the Colorado constitution, and, on July 17, 1899, Chief Justice Campbell announced that the court had "unanimously decided that the so-called eight-hour law was unconstitutional and void." The opinion, handed down in full at the September term, held that

it is manifest that this extraordinary and extreme statute is not necessary and was not intended for the protection of the public. Its sole purpose was to regulate private interests and enforce private rights. In no sense can it be regarded as a police law, and consequently is not within the police power. In this statute we have another example of class legislation where the legislature has attempted to improperly interfere with the private rights of the citizens.<sup>3</sup>

According to the state commissioner of labor, this opinion was received by the wage workers and the industrial classes generally with many expressions of disapproval and denunciation, especially in the organ of the Western Federation of Miners, the *Miners' Magazine*. The commissioner thereupon

<sup>1</sup> Utah v. Holden, 14 Utah, 71.

<sup>2</sup> 169 U. S. Reports, 395-397.

<sup>3</sup> 26 Colorado, 417.

approved a recommendation, already demanded by the Federation, that the legislature submit to the people a constitutional amendment legalizing the eight-hour law.<sup>1</sup> The Federation now became extremely active in its advocacy of the proposed constitutional amendment.

The question was thoroughly agitated; and, in the following year, the Republican, Democratic, Populist and Socialist parties agreed in demanding the proposed amendment, which should establish the eight-hour law beyond all question. The next General Assembly, which met in January, 1901, passed an act providing for a submission of the matter to the people at the approaching general election. The proposed amendment to article v of the state constitution read as follows:

The General Assembly shall provide by law and prescribe suitable penalties for the violation thereof, for a period of employment not to exceed eight hours within any twenty-four hours (except in cases of emergency where life or property is in imminent danger) for persons employed in underground workings, blast furnaces, smelters, and any ore-reduction works or any other branch of industry or labor that the General Assembly may consider injurious or dangerous to health, life, or limb.<sup>2</sup>

The general election of November 4, 1902, resulted in a total vote of 186,820 for governor (Peabody being elected) and a total vote of 99,246 on the amendment, 72,980 voting for it. Several other amendments were submitted at the same time, but none received such strong approval from the voters.

To the next General Assembly, which met on January 7, 1903, was entrusted the task of complying with the mandate of the people as expressed in the constitutional amendment. Bills were at once introduced into both houses with this end in view, and the smelting interests in particular began an active lobby against the proposed act. After hearing statements from the mine owners and the miners' representatives, a bill was passed by the Senate and another by the House. On April 4, however, Mr. Nathan C. Miller, the attorney general, declared the Senate

<sup>1</sup> Seventh Biennial Report of the Colorado Bureau of Labor Statistics, pp. 153-427.

<sup>2</sup> Eighth Biennial Report of the Colorado Bureau of Labor Statistics, pp. 426, 427.

bill unconstitutional, on the technical ground that the corporations could not be made criminally liable as provided in one section (sec. 2), and that the act was ineffectual on account of the omission of the agents and officers of corporations from the penalty clause. The House bill was apparently subject to the same objection. At all events the session ended on April 6 without passing any law on the eight-hour question.

It was freely and bitterly charged, especially by the friends of labor, that these defects had been incorporated in the bills at the instigation of the large corporate interests engaged in mining coal and in refining and reducing ores. Although there is no direct evidence of corruption, in the minds of many citizens, especially the miners, it became a conviction that there had been corruption; and this was one of the main factors in the bitter struggle which ensued. Thus was demonstrated the validity of the principle laid down by Professor Burgess that

when in a democratic political society, the well-matured, long and deliberately formed will of an undoubted majority can be persistently and successfully thwarted by the will of the minority, in the amendment of the organic law, there is just as much danger to the state from revolution and violence as there is from the caprice of the majority, where the sovereignty of the bare majority is acknowledged.<sup>1</sup>

With the exception of the strike of the employees of the reduction mills at Colorado City, early in 1903, and the resultant quasi-sympathetic strike of the miners of the Cripple Creek district, the labor difficulties in Colorado, in 1903-1905, are directly traceable to the failure of the legislature to enact an eight-hour law in accordance with the constitutional amendment adopted in 1902, and to the unwillingness of the mine managers to yield to the letter and spirit of the same. And the troubles in the Cripple Creek district are indirectly attributable to that fact; for the miners were enraged everywhere over the action of the legislature.

On April 10, 1903, the local union of the Federation at Idaho Springs, thirty-seven miles west of Denver, sent the

<sup>1</sup> Political Science and Constitutional Law, I, 151.

managers of the different mines a notice that "as the fourteenth General Assembly had failed to comply with the wishes of the people of the state of Colorado in regard to the enactment of an eight-hour law," all mines within the local union's jurisdiction would be required to conduct operations on an eight-hour basis.<sup>1</sup> This demand was refused at first but, after a strike, was conceded by three of the mine managers. The Sun and Moon mine, however, resumed operations with non-union men, and, on July 28, the transformer house was wrecked by two kegs of powder or dynamite rolled down the hillside. One of the dynamiters, an Italian workman belonging to the union, was mortally wounded but refused to reveal his accomplices. Twenty-three arrests of union officers and men were then made, and, at the indignation meeting, held July 29 by the Citizens' Protective League, it was declared that the "officers of the Western Federation of Murderers" were cognizant of the outrage.

As a result of the meeting fourteen of the arrested men were taken from the town jail and told by the spokesman of the mob, composed largely of business and professional men, not to let themselves be seen in the vicinity again. The League at once issued a statement that

the action of the citizens of Idaho Springs last night speaks for itself. The members of the union were given to understand from the first that so long as they were agitators of socialistic principles we would hold them responsible should any damage be done to property in the district.<sup>2</sup>

The League then continued its work of deporting by force prominent union men. A committee of the latter, protesting their innocence of the outrage in question, petitioned Governor Peabody that they be allowed to return to their homes and be protected from "a lawless organization." They added, "if we are guilty of violating any law, we claim the right of being

<sup>1</sup> Ninth Biennial Report of the Colorado Bureau of Labor Statistics, pp. 73 *et seq.*; Labor Disturbances in Colorado, pp. 151-159.

<sup>2</sup> Labor Disturbances in Colorado, p. 155.



heard before a legal tribunal." On August 3, the governor replied to the petition, declining to interfere inasmuch as the court had "full power to furnish redress." On August 10, as a result of an application by the attorney for the deported men, Judge F. W. Owers granted an injunction restraining members of the Citizens' League from disturbing the deported men, characterizing the League in its violent acts as a "mob guilty of sheer anarchy." Bench warrants were then issued against 129 citizens of Idaho Springs on the charge of rioting, making threats, and assault.

Fifty-one union men were tried in connection with the transformer house explosion, and all were either acquitted or the indictments quashed by the district attorney; but the strike for eight hours a day was successfully broken by the mine owners. The charges against the 129 citizens were never considered in court, on account of the great expense entailed and the difficulty of obtaining evidence.

The second important strike on behalf of the eight-hour principle was made at Denver by the smeltermen. On the adjournment of the legislature without action, the Federation demanded the eight-hour day from the smelting and reduction companies in whose mills the hours were longest and wages the lowest. With the exception of two independent concerns, all the smelters in Colorado were operated by the American Smelting and Refining Company. In all except two of the latter company's plants—one at Pueblo and another at Durango—the men worked ten or twelve hours a day at wages ranging from \$1.75 a day, for laborers, to \$4.00 for a twelve-hours' day, paid to furnace foremen.

On June 17, 1903, the local union of the Federation in Denver asked for an eight-hour day on the ground that the work was hazardous and unhealthful and that eight-hour days prevailed in the mines from which the ore came.<sup>1</sup> The demand was refused by Mr. Frank Guiterman, general manager of the American Smelting and Refining Company for Colorado, on the alleged ground that it would involve increased expenses

<sup>1</sup> *Miners' Magazine*, Aug. 4, 1904.

which the company could not afford without crippling the smelting and mining interests of the state. A strike was forthwith declared, on July 3, and a crowd from the adjourned union meeting which voted the strike went to the company's two plants and compelled 275 men there to stop work. The fires were extinguished and the metal in several of the furnaces congealed, causing considerable loss to the company.

On the following day, Ex-Governor James B. Grant, a member of the executive committee of the company, was reported to have said: "We are in the fight and we will be there at the finish. What is the use of giving in? The Western Federation of Miners now want eight hours. If we grant them that, it will be only a question of time before they are striking for six." At the same time the union issued a statement, asserting that the company had watered its stock many times and that the employees were overworked to pay dividends.

The manager is aware of the fact that men employed in and around the smelters are the poorest paid and most overworked of any department of labor in America. He knows that in a few years the physical organization of the smelter employee is wrecked, and that the victim who has succumbed to long hours and poisonous fumes becomes an object of charity whose health and strength have been coined into dividends for the trust. . . . The cost of living has increased 30 per cent, and no one will assume that the American Smelting and Refining Company has increased the wages of its employees in like proportion. . . . The perfecting of machinery and the displacement of labor which have been brought about through inventive genius have enabled the smelting trust to treat ores cheaper than ever before.

President Moyer asserted that he had advised against the strike but said, further, that "for this whole trouble the governor and the fourteenth general assembly have much to answer. If they had done their duty, there would be no strike now." On July 5, Manager Guiterman stated in reply that

the issue before the people of Colorado is whether corporations, which are an integral part of the industrial community, whether in combination or not, which as taxpayers operate under legal authority, can con-

duct their business under the protection of lawfully constituted authority, or whether they shall be subject to the domination and dictation of an irresponsible body which assumes to represent the laboring class ;

and he concluded with the assertion that the company " had always had the interests of its employees at heart." Thereupon application was filed in court for a writ of injunction against the chief labor organizations of the state, more particularly against the smeltermen's union, forbidding any interference, such as picketting and publishing orders commanding those at work to cease. On July 7, Judge Dixon granted the writ, thus, as the miners contended, throwing the weight of the government, which had but recently refused to carry out the clear mandate of the people, on the side of the mine owners who had bribed the legislature.

The Federation of Miners, four days later, issued a manifesto challenging the statements of Manager Guiterman, which contained the following statement :

Was the American Smelting and Refining Company considering " the best interests of their employees " when a literary bureau was established by the trust which flooded the fourteenth General Assembly with bulletins, using every specious pretext to deaden " the consciences of the servants of the people?" Was the American Smelting and Refining Company showing fair play when it maintained a lobby in the last session of the legislature to nullify the voice of the people as expressed at the polls on the eight-hour amendment? The responsibility of this strike must rest upon the infamous combination that corrupted and debauched the representatives of the people, who refused at the bidding of the trust to place an eight-hour law upon the statute books of Colorado. The men in the mines, mills and smelters are now convinced of the fact that little can be expected of legislative bodies to ameliorate the condition of the miner while corporations with millions can purchase the honor of men elected to enact such laws.

On the same day, July 11, the Federation sent out an appeal to the labor world to contribute to its eight-hour fund ; and, the next week, Messrs. Haywood and Moyer brought out a reply to the American Smelting and Refining Company's claim to protection as " taxpayers." They printed the statement by the

state auditor to the effect that the American Smelting and Refining Company was a "foreign corporation capitalized at \$100,000,000," and had not paid its annual state incorporation license tax for the years 1901, 1902 and 1903—that is, for three years prior to the strike. They accompanied this with another statement by the deputy secretary of state, certifying that no annual report from the said company was on file in the office of the secretary of state as required by law. Now, contended the miners, the American Smelting and Refining Company has not only secretly debauched the legislature, it has defied the well-recognized laws of the state. We have proceeded in a legal way to secure the eight-hour law; we have been deceived and beaten by the government we trusted; the company appeals to law, receives its protection, and yet defies it when private interests are at stake.

The smelter strike, however, was broken by the company although the Federation did not declare it off. Thus two contests for eight-hour schedules had been lost by the miners. Through their press and innumerable leaflets they were kept at fever heat; and, in the autumn of the year, they were not in any conciliatory mood when the troubles began at Telluride which culminated in mob violence, military despotism and anarchy.

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## THE OIL TRUST AND THE GOVERNMENT

**A**MONG the recent economic and political developments in the United States, none has attracted more attention than the effort of the federal government to curb and to control monopolies in transportation and industry. In this work the Bureau of Corporations has been to some extent a pioneer, both for the Interstate Commerce Commission and for the Department of Justice. Next to the general problem of railroad regulation, the most important work of the government has been the investigation and prosecution of the so-called Oil Trust. In the course of this work, the Bureau of Corporations made discoveries and established facts concerning the relation of railway abuses to industrial monopolies which have had a decisive influence not only in furthering the legislation respecting railway regulation, but also in showing, in some directions, the particular methods of control which were necessary.

Although the trusts are not the effect of any one cause, it is undoubtedly true that railway favoritism has played a very important part in promoting their rapid development in the United States, while, on the other hand, certain of these great monopolies have exercised a sinister influence on the rate-making policies of the railways. It is natural, therefore, that in working in the coördinate field of industrial monopolies, the Bureau of Corporations has been able to afford important assistance to the Interstate Commerce Commission. The problem of regulating industrial monopolies, however, is even more difficult of solution than the problem of railway control, and the best policy to be pursued is not a matter upon which competent and disinterested persons are in general agreement. The work of the Bureau of Corporations in the investigation of the Oil Trust, however, is of great value in procuring the kind of information which is necessary for the determination of this question; and it has also provided, for the use of the Department of Justice, the material upon which actions have been begun for violations of the existing laws.

*Scope of the investigation*

There was nothing invidious in the selection of the Oil Trust for governmental investigation from among the many monopolistic combinations in the United States, some of which have been quite as unscrupulous in their methods if not as obnoxious to the public welfare as this archetype of trusts. That this company was chosen as a scapegoat has been intimated by the Standard's defenders, but the selection of the Oil Trust for investigation was, in fact, merely the result of one of its characteristic manoeuvres in Kansas. The crude-oil producers of Kansas, smarting under the sense of injury caused by a sudden and extraordinary reduction in the prices for crude oil offered by the Standard, which was practically the sole purchaser, brought their complaints to Congress at the end of the year 1904, and the House of Representatives, on February 15, 1905, passed a resolution requesting the secretary of commerce and labor to investigate the causes of the low price of crude oil in the Kansas field. The resolution also requested information about the oil trade as a whole and, particularly, with regard to the existence of unusually large margins between crude and refined oil, and whether there existed any conspiracy or combination in restraint of trade. In case such a combination were discovered, Congress requested information as to its organization, capitalization, profits and the management of its business. The secretary of commerce and labor was requested, finally, to report the findings for the information of Congress as a basis for legislation.

The investigation of several important combinations, including the Oil Trust, had already been begun by the commissioner of corporations, acting on his own initiative under the general power conferred upon him by law; but this resolution of Congress, as well as the special conditions which had arisen in the Kansas field, gave to this inquiry a special importance and urgency.

The attention of the Bureau of Corporations was naturally directed, in the first instance, to the situation in Kansas, and in the other new oil fields of Texas and California, from which



also complaints were received; but a preliminary examination of the conditions showed, as was anticipated, that it was impossible to make an adequate report without considering the oil industry as a whole.

The investigations of the Bureau extended particularly to the questions of (1) organization of companies; (2) crude-oil production and prices; (3) pipe line and railroad transportation; (4) refining; (5) marketing refined products; (6) prices of products; (7) profits of companies, and (8) unfair competition. On nearly all of these subjects, the Bureau of Corporations has issued reports. The special discussions on the conditions in Kansas, Texas and California, as well as some aspects of the subject of unfair competition, and a special report on the foreign petroleum trade have not yet been published. The material of these reports, even before it was published, however, was placed at the disposal of the Department of Justice.

The sources of the material for the report on petroleum transportation are indicated below; for other branches of the oil trade, the information used was obtained from a great variety of sources. For some branches of the business, the desired material was obtained from the Standard companies directly. Thus, the Prairie Oil and Gas Company, of Kansas, practically opened its books to the agents of the Bureau. The Pacific Coast Oil Company and the Continental Oil Company furnished valuable records of prices. The Standard Oil Company of New Jersey also furnished a limited amount of information. In general, however, the Standard was reluctant to furnish the required information and not only interposed needless delays but also refused entirely to supply the most important data. Various reasons of administrative expediency, the risk of affording immunity from punishment, *etc.*, made the government, in this investigation by the Bureau of Corporations, refrain from using its full powers in such cases. More recently, the Standard has been brought into court, as described below, and has been forced to disclose its records and accounts very extensively. The information which is now being secured in this court proceeding bears out very fully the conclusions of the Bureau of Corporations. The greater part of the Bureau's data was secured from

outside sources. Independent refining concerns—at least the more important ones—generally furnished extensive and valuable material concerning all aspects of the business, while a great amount of material was obtained from oil producers and from independent oil dealers, wholesale and retail. For the lubricating oil trade, valuable information was obtained from railway officials, in part by use of subpoenas. In order to obtain the most reliable data possible in regard to the foreign oil trade, an agent was sent to the chief markets and producing countries of Europe, and, although the subsidiary companies of the Standard refused to furnish information, much valuable material was obtained from their competitors. The official reports of the Geological Survey regarding crude-oil production and pipeline runs (which are taken from figures published by the pipeline companies), as well as the Census reports of production of refined-oil products, and all reliable sources of published information in trade journals, books, *etc.*, were extensively used.

### *The Report on Transportation*

The subject of railway transportation attracted especial attention, as there was good ground for believing that the Standard Oil Company and its affiliated concerns enjoyed preferences from the railroads of sufficient importance to cause a serious impediment to competition. Prominent officials of the Standard had frequently gone out of their way to assert in a public manner that they no longer received rebates or any other kind of preferential treatment from the railroads, while the railroad officials throughout the country were even more emphatic in announcing to the public that abuses of that sort had been completely extirpated. The commercial respectability of some of these sponsors of the railways created a belief in the minds of many intelligent people that such offences, if they existed at all, were of a very sporadic character; but the best informed of the Standard's competitors were convinced of the contrary, though they had practically no evidence.

The Bureau of Corporations had not been very long studying the transportation situation before it procured evidence, not only of extensive secret preferences to the Standard over its com-

petitors, but also of an equally iniquitous' (though probably not criminal) system of adjustment of open rates to favor localities in which the Standard, and the Standard only, had refineries. This evidence was obtained from the examination of railway records and waybills and from the published and unpublished tariffs of the railways in all parts of the country. In some cases, a clue was furnished to the investigator; but most of the secret rates were discovered by taking important points of shipment and subjecting the railroad records of shipment and freight charges to a general scrutiny. The results were such as to surprise even those who had not accepted with ingenuous simplicity the fervent protestations of railway officials that discrimination in transportation rates was a disease of adolescence long since passed.

The detailed results of this part of the investigation were published in a volume entitled: *Report of the Commissioner of Corporations on the Transportation of Petroleum, May 2, 1906*. This report is, without doubt, one of the most valuable ever published by the national government. As indicated above, it showed two general forms of abuse in the matter of transportation rates. The first and more glaringly unjust, in fact criminal, proceeding was to arrange secret rates which enabled the Standard Oil Company to reach markets, in extensive areas of the United States, at advantages in cost of transportation often ranging as high as one to one and a half cents per gallon. Such differences in cost of transportation were much more than a reasonable profit on the investment in refining and marketing oil and were, therefore, sufficient to give the Standard a monopoly in such regions, because it could temporarily reduce its prices to a level which would compel competitors to sell at a loss and still make a profit itself.

After the Standard obtained a monopoly of such markets, the only checks set on price extortion were either the limits of demand and purchasing power of the consumer or the remote danger that extraordinarily large profits would tempt competitors to enter the market, even at an immense disadvantage in the rates of transportation. The advantage of such secret rates to the Standard, therefore, was not the mere difference in trans-

port cost on a given number of carloads of oil, but the advantage of obtaining a monopoly and monopoly profits, often several cents per gallon above a reasonable profit. It is for this reason largely that discriminating rates are contrary to public policy and are regarded as so dangerous to the common welfare that the law pronounces them crimes.

It is impossible to enter here into a description of these secret rates, which are set forth in detail in the report, but the regions covered by the more important ones may be indicated, in a very general way, as follows: (1) for shipments from refineries in western New York to northern New York and northern New England territory; (2) for shipments from the Whiting refinery (near Chicago) to a large part of the area south of the Ohio and east of the Mississippi; (3) for shipments from Whiting to St. Louis and southwestern points beyond; (4) for shipments from St. Louis to Alexandria, La., and points beyond (Waters Pierce Oil Company); (5) in California instances were discovered of the direct payment of rebates, as well as many secret rates not arranged through rebates; (6) in some parts of the country the tank-car rentals paid by the railroads to the Standard Oil concerns were higher than to their competitors.

The discriminations were sufficient to assure control of the markets in these large territories and, therefore, to enable the Standard to extort monopoly prices. The Bureau of Corporations not only ascertained the existence of these unlawful rates, but obtained original documents, copies and abstracts of records, showing in detail the methods of concealing the rates and the volume of business covered by them. These detailed evidences have proved of great service to the Department of Justice in the criminal prosecutions subsequently initiated.

The second class of abuses may be described as a system of local discrimination in open or published rates intended to favor points where only the Standard had refineries. This, though not criminal, amounted to an injurious local discrimination forbidden by law, and for which remedy was intended to be provided in the Interstate Commerce Commission and in the civil courts. Although instances of such preferential treatment were naturally known to competing shippers, yet it was only through

the comprehensive investigation of the Bureau of Corporations that the extent of this abuse was shown to be nothing less than a general system of rates whereby the railways conspired with the Standard to procure for the latter a monopoly of the oil trade. Connected with this discrimination was the equally unjust and unlawful refusal of railroads, in several important sections of the country, to prorate, *i. e.*, to make joint through rates, on oil, when such a refusal was favorable to the Standard's efforts to establish a monopoly in the trade.

The discovery of these widespread abuses in the business of transportation of oil happened at a time when the question of a more thorough control over the railways was a subject of legislative consideration, and the findings on this subject served to the enlightenment of Congress and the public. The existence of such conditions in the oil trade naturally did not tend to dissipate the suspicion that railway discriminations prevailed quite generally; and, therefore, this report of the Bureau had a decisive influence in securing the passage of the rate law of 1906, which gave to the Interstate Commerce Commission much wider powers over the control of railways, including the right of fixing reasonable rates and the right to inspect their records in most thorough manner. This law, therefore, was in part, at least, one of the first results of the investigation of the oil industry, because up to that time the champions of the railways in Congress were still denying the necessity of strict regulation and maintaining, generally, that the railways were conducting their affairs according to law.

The railways themselves, as soon as they learned that the Bureau of Corporations had made these discoveries, hastened to exculpate themselves as far as possible by quickly abolishing these secret discriminatory rates, by largely remedying the discriminations in open rates, and by resuming the practice of prorating on oil. The report had the immediate effect, therefore, of bringing extensive relief to independent oil shippers in large sections of the country. The Standard Oil officials who were given a hearing before the publication of the report made a very lame defense, often on lines quite different from those subsequently adopted in court.

*"Rebate" cases*

The next result was the prosecution and conviction of the Standard on criminal charges of accepting unlawful discriminations in transportation. The work was naturally undertaken by the Department of Justice, but the offenses alleged were those discovered by the Bureau of Corporations, and, in the production of evidence as well as in the conduct of the case, the Bureau furnished most important assistance, because the offenses, though palpable and glaring, required a technical proof which could be furnished only by persons intimately acquainted with the details of railway transportation.

Criminal proceedings were instituted in various district courts of the United States, where the offenses were committed. The number and character of these indictments are indicated in the table on pages 26 and 27.

The total number of indictments found against the Standard was nineteen, and the total number of counts was 8710. A small number of these counts, however, represent duplications of the same subject matter or offence. For example, in the Olean cases, both the consignee (Standard Oil Company of New York) and the consignor (Vacuum Oil Company) were indicted. Indictments for some of the same shipments were found also against certain railway companies, while other railway companies which had assisted the government in procuring or giving evidence were not indicted.

Prosecution has been conducted to a successful issue in the first case given in the above list, though an appeal to the higher court is still pending. In the seventh case, the defendants demurred and the demurrer was sustained by the court. The other cases have not come to trial at the present writing (December, 1907), though numerous demurrers of the defendants have been overruled. One of the cases against the railway companies, namely, against the New York Central Railroad for failure to file the tariff according to which it transported oil for the Standard, has been prosecuted, and the railway has been convicted and fined \$15,000.

## INDICTMENTS FOUND AGAINST THE STANDARD OIL CONCERNS AND VARIOUS RAILROADS FOR DISCRIMINATION IN RAILWAY RATES

COURT	DATE	NUMBER OF INDICTMENTS	COUNTS OF INDICTMENTS	COMPANY INDICTED	ROUTE OF SHIPMENTS
Northern District of Illinois.	Aug. 27, 1906.	1	1903	Standard Oil Co. of Indiana.	Chicago & Alton Railway from Whiting, Ind., to East St. Louis, Ill., and from Chappell, Ill., to St. Louis, Mo.
do	do	1	134	do	do
do	do	1	2124	do	Chicago, Burlington & Quincy Railway from Whiting, Ind., to East St. Louis, Ill., and St. Louis, Mo.
do	do	1	220	do	do
do	do	1	1318	do	Chicago & Eastern Illinois, and Evansville & Terre Haute railroads, from Whiting, Ind., to Evansville, Ind.
do	do	1	597	do	do
do	do	2	103	do	Chicago & Eastern Illinois, and Evansville & Terre Haute railroads, from Whiting, Ind., via Grand Junction, Tenn., to various points in the South.
Eastern Division of the Western District of Tennessee.	Oct. 16, 1906.	1	1324	do	Illinois Central and Southern railroads, from Evansville, Ind., via Grand Junction, Tenn., to various points in the South.
Eastern District of Missouri.	Nov. 28, 1906.	1	76	Waters Pierce Oil Co.	St. Louis, Iron Mountain & Southern Railway, from St. Louis, Mo., to Alexandria, La., and to points in Louisiana beyond Alex- andria, via Morgan's Louisiana & Texas and the Louisiana Western railroads.

INDICTMENTS FOUND AGAINST THE STANDARD OIL CONCERNS AND VARIOUS RAILROADS FOR DISCRIMINATION IN RAILWAY RATES. — *Continued*

COURT	DATE	NUMBER OF INDICTMENTS	COUNTS OF INDICTMENTS	COMPANY INDICTED	ROUTE OF SHIPMENTS
Western District of Louisiana.	Jan. 28, 1907.	1	32	Waters Pierce Oil Co.	St. Louis, Iron Mountain & Southern Rail- way, from Bixby, Ill., to Alexandria, La., and <i>via</i> Morgan's Louisiana & Texas and Louisiana Western railroads to points in Louisiana beyond Alexandria.
Western District of New York.	Aug. 24, 1906.	1	23	Standard Oil Co. of New York.	From Olean, N. Y., to Vermont.
do	do	1	123	do	do
do	Aug. 10, 1906.	1	23	Vacuum Oil Co.	do
do	Aug. 9, 1907.	1	188	Standard Oil Co. of New York.	From Olean, N. Y., to Burlington, Vt., <i>via</i> New York Central and Rutland railways, or New York Central, Rutland and Ver- mont Central railways.
do	do	1	40	do	From Olean, N. Y., to Rutland and Bellows Falls, Vt., <i>via</i> N. Y. Central and Rutland railways or N. Y. C., Rutland and Vermont Central railways.
Western District of N.Y.	Aug. 9, 1907.	1	188	Vacuum Oil Co.	From Olean, N. Y., to Burlington, Vt.
do	do	1	40	do	From Olean, N. Y., to Rutland and Burling- ton, Vt.
do	Sept. 6, 1907.	1	54	Standard Oil Co. of New York.	From Olean and Rochester, N. Y., to Ver- mont points.
		19	8710		



The only important case which up to December, 1907, had come to trial, was the indictment against the Standard Oil Company of Indiana for accepting a secret rate on shipments over the Chicago and Alton Railway, from Whiting, Indiana, to East St. Louis, Illinois, and from Chappell, Illinois, to St. Louis, Missouri. The published rate on this traffic was eighteen cents per hundred pounds (as far as East St. Louis, a bridge toll of one and a half cents being added on shipments to St. Louis); while the rate paid by the Standard Oil Company of Indiana, during the period of about three years covered by the indictment and for many years before, was only six cents per hundred pounds. On this rate, the Standard had transported, as charged in the indictment, 1903 carloads of oil, each carload being made the subject of a distinct count and separate proof. The trial of this case began in Chicago, on March 4, 1907.

The defence not only exhausted every device of technical objection and obstruction but also attacked the constitutionality of the "Elkins" law forbidding rate discrimination, alleging the right of the railroads and shippers to make private contract rates, an impudent assertion which the court justly characterized as an "abhorrent heresy." The question of guilt in the matter of technical proof depended to a large extent on the requirements of the law that carriers must file rates, and the argument of the prosecution was that shippers must be charged with the knowledge as to whether such rates were lawfully filed or not. The defendant pretended ignorance of the fact that the six-cent rate had not been filed by the Alton and alleged that it was an unreasonable requirement to charge it with such knowledge. On this point, the court said in rendering judgment:

The honest man who tenders a commodity for transportation by a railway company will not be fraudulently misled by that company into allowing it to haul his property for less than the law authorizes it to collect. For the carrier thus to deceive the shipper would be to deliberately incriminate itself, to its own pecuniary detriment, which it may safely be trusted not to do. The only man liable to get into trouble is he who, being in control of the routing of large volumes of traffic, conceives a scheme for the evasion of the law, and connives with railway officials in its execution.

The jury returned a verdict of guilty on 1462 counts, on April 14, 1907; a considerable number of counts, namely 441, were thrown out on technical grounds. In the matter of penalty, the Standard's counsel argued (1) that there were only three offences shown, namely, one for each year in which the rate was in force; (2) that there were only 36 offences shown, namely, one for each monthly settlement of freight charges; and (3) that each train load constituted a separate offence. The court held, however, that the unlawful rate was made on a carload lot basis, and that each carload unlawfully transported constituted a distinct offence. In considering the amount of the fine to be levied, the court demanded information from the officials of the Standard Oil Company regarding the net earnings and dividends of the chief holding company of the trust—the Standard Oil Company of New Jersey. Their attendance and testimony were obtained only by writ of subpoena; and it was admitted that the net profits during the years 1903 to 1905 (when these rebates existed) amounted to \$81,336,994, \$61,570,110 and \$57,459,356 respectively.

In view of the fact that the counsel of the defendant openly maintained the right of the railways and shippers to make private contracts for rates, the court declared that it was "unable to indulge the presumption that in this case the defendant was convicted of its virgin offence." The defendant also claimed that, as there were no other shippers of oil over the Chicago and Alton Railway, no one was injured by the secret rate. On this matter the court said:

It is novel, indeed, for a convicted defendant to urge the complete triumph of a dishonest course as a reason why such course should go unpunished.

Of course, there was no other shipper of oil, nor could there be, so long as, by secret arrangement, the property of the Standard Oil Company was hauled by railway common carriers for one-third of what anybody else would have to pay.

Moved by these considerations, the court adjudged, on August 3, 1907, that the defendant should pay the maximum penalty and fined the Standard Oil Company \$20,000 for each offence,

that is, for each of the 1462 counts in the indictment upon which conviction was obtained. The total fine, therefore, amounted to \$29,240,000. The large amount of the fine created a great sensation, but, after all, it was a bagatelle compared with the sums that the Standard Oil Company had extorted from the people of the United States very largely by means of such criminal methods. The fines prescribed by law were intended to be exemplary; and, in view of the difficulty in discovering such offenses and in procuring conviction, it was quite proper that an old and hardened offender like the Standard Oil Company, which had grown rich by such criminal practices, should suffer the full penalty of the law.

The defendant in this case has, of course, taken an appeal to the higher courts. The only prospect that the appeal will be successful appears to lie in purely technical points. The Standard officials have issued a statement protesting against the conviction and fine and alleging that, at most, they were merely technically guilty and that there was no intention to violate the law and no moral guilt. The only point worthy of consideration in this statement is the claim that, at the same time that the Standard was shipping over the Alton at an unfilled rate of six cents, there was a rate over the Chicago and Eastern Illinois Railroad from Whiting to East St. Louis of substantially the same amount, namely, six and one-fourth cents, and that this rate had been filed with the Interstate Commerce Commission and was an open rate. It was argued that the judge, in the Alton case, had unjustly excluded testimony on this point as irrelevant. The answer to this contention is that the rate over the Chicago and Eastern Illinois Railroad was as secret as the rate over the Alton, and that the judge did consider this point in imposing the fine. Filing of a rate with the Interstate Commerce Commission is not a complete compliance with the law requiring publicity of rates. The rates must also be posted in the forwarding stations and must be open to all shippers. The Chicago and Eastern Illinois did not conform to these latter requirements of the law but kept the rate completely secret. As a means to that end it "blind billed" the freight, that is, showed no rate on the way-bills and collected the actual charges, not

through the local agent but by the unusual method of bills rendered by the general auditor. The evidence, indeed, points strongly to the conclusion that the tariff was never even in the possession of the local agent, who therefore could not have disclosed the true rate to a prospective competing shipper. The care used by the Alton to conceal its rate by falsely entering the rate of eighteen cents on its way-bills and secretly collecting the lower rate through its general auditor cannot be explained if, as a matter of fact, the Chicago and Eastern Illinois rate was an open one. Officers of the Chicago and Eastern Illinois had previously admitted to representatives of the Bureau of Corporations that the East St. Louis rate of that road was secret, and apparently they did not even know that it had ever been filed with the Interstate Commerce Commission. It may be noted that the tariff thus filed with the Commission did not read directly from Chicago or from Whiting, but from an insignificant junction point called Dolton, which no one would ever think of looking up.

The other rate cases against the Standard companies remain to be tried. The opinion may be ventured that the evidence in the more important of these cases is even stronger than in the Alton case.

#### *The Standard's monopoly*

The next report of the Bureau of Corporations on the petroleum industry, after the above-mentioned report on transportation, was entitled: *Position of the Standard Oil Company in the Petroleum Industry*. It was published on May 20, 1907. This report gives a general description of the petroleum industry in the United States and of the leading concerns engaged in it. This involves a comprehensive statement of the history and organization of the Standard Oil Trust and its successor, the Standard Oil Company of New Jersey, with their numerous subsidiary concerns.

A large part of the facts stated in the report on this subject was already quite well known through the publication of various judicial proceedings, governmental investigations, etc. The most essential point of the matter is that, while the Standard Oil Trust was nominally dissolved in 1892, as the result of legal

proceedings brought against it by the state of Ohio, as an unlawful combination in restraint of trade, yet, nevertheless, it had practically evaded the decrees of the court and continued for several years with substantially the same organization as before, when it was reorganized in the form of a holding corporation.

The report also discusses the relation of the Standard to the production of crude oil, pipe-line transportation, refining and control of markets in the United States. It is shown that the Standard, in all the important oil fields except Texas and California, buys anywhere from 80 to 99 per cent of the total crude product and, in such fields, has almost unlimited power to fix the price of crude oil. Except in the Lima-Indiana, Pennsylvania and Illinois fields, the Standard is not a large producer of crude oil, and, even there, it has less than a third of the output. The monopoly position of the Standard as a purchaser of crude oil is shown to be the result of its control of almost all the pipe lines of the country. These lines in the aggregate amounted, in 1906, to perhaps as much as 50,000 miles of pipe of various sizes. The only important independent trunk pipe line from the principal oil fields, at that date, was that of the Pure Oil Company. This line of about 550 miles, which reaches the Atlantic seaboard, was established in the face of the most bitter opposition not only of the Standard but also of the railways, which were incited by the Standard to throw every obstacle in the way. In other cases also the Standard has repeatedly used most unfair means to prevent the construction of competing pipe lines or to destroy the business of those already laid. Recently two independent companies have constructed important trunk lines from Oklahoma to the Gulf.

Investigations of the Bureau show clearly how this control of the pipe lines by the Standard has been made an engine of monopoly. Although by the laws of several of the states pipe lines are required to act as common carriers, and although by the federal law of 1906 they are required to act as such in interstate transportation, the Standard pipe lines have never, up to the present time, generally and uniformly transported oil for others; and, in the instances where they have done so, or have held themselves out as willing to do so, they have made prac-

tically prohibitive rates. Since the passage of the federal law mentioned, the Standard has taken the position that only those pipe lines or parts of pipe lines which had exercised the right of eminent domain could be made common carriers by federal enactment. Consequently, several of the most important pipe lines of the Standard have failed to file tariffs under this law. This is true of the lines reaching the new and enormously productive mid-continent (Kansas and Oklahoma) and Illinois oil fields. The ability of the Standard to use this cheap oil in its great eastern refineries, while its competitors (except purely local concerns in and near these oil fields) have to use much higher priced oil, because they cannot ship through the Standard pipe lines, is to-day the Standard's principal bulwark in protecting its monopoly of the refining industry. Moreover, the pipe lines, reaching the seaboard have failed to name any rates from any oil field to New York harbor or to Baltimore, two of the most important destinations to which independent concerns might wish to ship oil, the only seaboard points for which rates are filed being Philadelphia and the neighboring town, Marcus Hook, Pennsylvania. Instead, the pipe lines have adopted the absurd procedure of naming a large number of rates to Unionville, New York, Centerbridge, Pennsylvania, and Fawn Grove, Pennsylvania. All of these points are on state lines bordering New Jersey or Maryland. The Standard contends that, since there is no eminent domain law for pipe lines in New Jersey and Maryland, it cannot be required to transport oil for others through these states. In order to evade the law the Standard changed the ownership of that part of its pipe lines lying in New Jersey and Maryland. Formerly, the same companies which owned the trunk lines through New York and Pennsylvania owned the pipes in these other two states, but, shortly before the passage of the act of 1906, they were transferred to the Standard Oil Company of New Jersey. Furthermore, the Standard, as a condition of transporting oil for others, in the few tariffs filed in accordance with this law, has imposed the requirement that the minimum shipped shall be 75,000 barrels, or, in some cases, even as high as 300,000 barrels—quantities so great as practically to prevent shipments by others.

The report also makes an interesting comparison of the rates charged for pipe-line transportation and the computed costs of transportation. The rates are generally about the same as railway transportation rates, while the computed costs are exceedingly small. The difference between a reasonable rate (based on total cost of operation and a fair allowance for depreciation and ten per cent for return on investment) and the pipe-line rates charged by the Standard is estimated to range, for a considerable number of important piping routes, from one-half of a cent to one cent per gallon.<sup>1</sup> This is a very great advantage and one which the Standard is not even legally entitled to enjoy, because many of the pipe lines have been built under special franchises granted by the state or have exercised the right of eminent domain, and hence are under obligation to act as common carriers and to charge reasonable rates.

Through its control of pipe lines, the Standard acquired, as stated above, the power to control to a large extent the amount of crude oil obtained by independent refiners, and it has sometimes used this power to restrict their output and to compel them to sell their products to it. In fact, it is mainly on this account that the Standard has become the principal and sometimes almost the sole purchaser of crude oil in all the large oil fields except those of Texas and California.

It has naturally resulted, therefore, that the Standard has secured and maintained almost a monopoly of the refining business. The Standard reported to the Bureau that, in 1904, the total output of its refineries amounted to 21,341,179 barrels of illuminating oil. Adding to this the output of affiliated refineries not included in this statement, the total output controlled by the Standard was about 23,484,000 barrels. The total production of illuminating oil in the United States, in 1904, was 27,135,094 barrels; the Standard produced, therefore, 86.5 per cent of the total. The total number of refineries in the United States, in 1904, was about one hundred, while the Standard operated or controlled twenty-three. The Standard's refineries,

<sup>1</sup> Accounts of the Standard Oil pipe lines recently produced in court show that the Bureau's estimates of costs were too conservative, and that the costs are really less than estimated and, hence, the profits per gallon considerably greater.

however, are generally very large, while most of the independent refineries are small. In fact each of two refineries of the Standard produces more than all the independents taken together.

The Standard's chief refineries are situated at skilfully selected points, where the full advantage is obtained, on the one hand, from cheap pipe-line transportation of crude oil and, on the other hand, from convenient location with respect to markets. In connection with this last advantage, an important feature was the existence of the secret freight rates already described. Thus, some of the most important secret freight rates were from Whiting (near Chicago), to points in the South and West, and at Whiting the Standard had one of its most important refineries, while the independents did not have any there or near Chicago, because they could not employ economically the Standard's pipe line from the Lima-Indiana field.

Having control of the pipe lines and of the great bulk of the refining industry, together with unlawful advantages in the transportation of its products to the markets of final sale and consumption, the Standard was enabled to monopolize quite completely the sale of refined products to retail dealers and thus to strengthen its control of prices. In order to establish this control on the most secure basis, it organized an elaborate marketing system with an extensive equipment of tank cars, storage tanks, barrel depots and tank wagons, for the distribution of its products. Illuminating oil and gasoline are generally handled in bulk from the time they leave the refinery until they are sold to the retail dealer. The jobbing business in these products has been almost completely destroyed. Lubricating oil is sold by the Standard directly to the large consumers, such as railroad companies and large factories, but for the smaller consumers a large part of this branch of the trade is still in the hands of jobbers, to whom the Standard sells the oil in the great central markets.

The elaborate organization of the business of distribution, particularly in the illuminating oil and gasoline trade, is one of the surest means for obtaining monopoly prices. The small refiner is compelled to go after the trade in the same manner and



to exhaust his energies in trying to market his product, because wherever he appears, the Standard concerns are able to cut prices locally and to destroy his profits without affecting the bulk of their business.

From extensive statistical data regarding the companies which supplied illuminating oil to a vast number of retail dealers in 1904, it is estimated that about ninety per cent of these dealers bought their oil wholly or partly from the Standard, while only about ten per cent of the dealers procured oil from concerns which were known as independent concerns. In some parts of the country, namely, the Rocky Mountain states, over 99 per cent of the trade appeared to be in the hands of the Standard. In the southern part of the North Atlantic states (*i. e.*, excluding New England), the independents made the best showing; in that region they supplied nearly eleven per cent of the trade, while about five and a half per cent was supplied by concerns not classified, and nearly 84 per cent by the Standard. These estimates of the Bureau have recently been confirmed from records of the Standard Oil Company showing its own estimates—largely based on precise reports of shipments of competitors—of its proportion of oil marketed. For 1904 the Standard calculated that it marketed 87.3 per cent of the illuminating oil in the country as a whole; for the Rocky Mountain states, 99.1 per cent.

#### *Prices of petroleum products*

Following the report on the position of the Standard Oil Company, just discussed, came in August, 1907, the report of the commissioner of corporations on *Prices and Profits in the Petroleum Industry*. This report comprises a comprehensive investigation into the course of prices of petroleum and petroleum products in the United States over a series of years, and contains also some comparisons of domestic with foreign prices, the detailed material concerning foreign prices being left for a special report on foreign trade soon to be published. Several chapters show the extent of the local price discrimination of the Standard in the sale of illuminating oil and gasoline, commodities which it generally sells directly to the retail dealer. The report also comprises discussions of the profits of refining and

marketing oil and a special chapter on the prices of railroad lubricating oil.

In order to have a proper view of the movement of oil prices, it is necessary to compare the prices which the Standard pays for crude oil with the prices of illuminating oil and the chief by-products. For illuminating oil, very extensive statistics regarding the prices paid by retail dealers were obtained, principally from the dealers themselves, partly from Standard concerns. For the month of December, 1904, the number of returns tabulated for water-white oil—the grade generally used—amounted to 1830 and covered all states of the Union, with a few exceptions, in a comprehensive manner. For the period September, 1897, to June, 1905, a sufficient number of price records were obtained to compute approximately the true average price-level per gallon for each month, and to show the movement of prices.<sup>1</sup> The prices of gasoline were taken as representative of the prices of naphthas and were obtained in the same manner as were those for illuminating oil. The number of price records obtained, though much less extensive than for illuminating oil, was sufficient to show the trend of gasoline prices (not the average price-level at a given time). For lubricating oil, which is sold chiefly to large jobbers (except railroad oil), the average prices of the Standard Oil Company as issued to the New England trade were used. These are fairly representative of the general course of lubricating oil prices. For paraffine wax—a small but valuable product—export values were used in default of a comprehensive record of domestic prices.

The prices of all these products showed considerable variation in movement from 1897 to 1905, but, on the whole, a strong advancing tendency. Illuminating oil, for example, advanced to a very high point in 1903–1904, and then declined

<sup>1</sup>Data of actual average prices subsequently produced by the Standard Oil Company in court showed that, for reasons which would require too much space to present here, the annual average prices thus computed by the Bureau exceeded by from a half cent to one cent per gallon the average proceeds of the Standard's sales. But the Standard's records showed even a greater advance, both absolutely and relatively, from 1898 to 1904, than the prices compiled by the Bureau. The Standard's records also showed that the Bureau underestimated the advance in the price of naphthas.

in 1905, but, nevertheless, was considerably higher in that year than at the beginning of the period, and the average of the first two and a half years was much higher than that of the last two and a half years. The prices of the several products are compared with the prices of crude oil—both Pennsylvania and Lima-Indiana crude oil—and in each case, a decided increase appears in the margin between them. It necessarily follows that, for all of them combined, a similar increase in margin appears.

In order to make such a comparison, however, it was desirable to take account of the proportion of each kind of oil which is produced from the crude and to calculate the movement of the margin for all products combined in an average weighted according to these proportions. The result showed a great advance in the average margin, or, in other words, that, compared with the price of crude oil, the prices of products in the aggregate had advanced greatly. For example, the margin (not the profit) between all products and Pennsylvania crude oil is represented by the quantity 6.6 cents per gallon for the period 1898–1899, and by 8.4 cents per gallon for the period January, 1903, to June, 1905. This is a gain of 1.8 cents per gallon. In other words, for every gallon of oil products sold, it is computed that, deducting the cost of crude oil, the Standard received on the average 1.8 cents more during the second period than during the first period. A similar comparison for Lima-Indiana crude showed a gain of 1.7 cents per gallon.

An increase in the margin between the price of crude oil and the prices of petroleum products of 1.8 cents per gallon means an enormous increase in the profits of refining and marketing, provided the cost of operation and the investment of capital remain the same. Even supposing that the expenses on these two accounts had increased 25 per cent (which is probably an exaggeration) the increased expense would not have been over half a cent per gallon. Hence, the increase in net profits per gallon was probably at least from 1.2 cents to 1.3 cents per gallon. It should be remembered that about one cent per gallon constitutes a good business profit for the Standard.

The Standard Oil Company is estimated to have sold about 1,400,000,000 gallons of all kinds of petroleum products in the

United States in 1904. On this gallonage, an increase in net profit per gallon of 1.3 cents is equal to more than \$18,000,000. As the profits on the sale of oil products in the United States were undoubtedly very large in 1898 and 1899, this increase in the computed profits indicates that excessive profits to an enormous amount were obtained from the domestic trade in the latter period.

The prices which the Standard has received in foreign countries, on the other hand, have not shown the same movement as in the domestic trade. For the chief export markets, namely, in northern Europe and in the Orient, new competition, especially in 1904 and 1905, provoked severe price-cutting on the part of the Standard, which undoubtedly sold very large quantities of oil below cost in order to crush its rivals and to maintain control of the trade. To some extent, this competition came from concerns which drew supplies from the United States, particularly of Texas oil. The determination of the real course of prices in the markets of northern Europe, as in the United States, can only be obtained by getting the prices to retail dealers, because the bulk of the trade of the Standard in those markets is handled by subsidiary companies, which, to a large extent, distribute oil in bulk by tank wagon to the small shopkeepers. Extensive data concerning the prices at which the Standard sold oil from tank wagons were furnished by large marketing concerns in England and in Germany. In the Oriental countries, such as India, China, Japan and the Dutch East Indies, oil is sold generally by the Standard to native wholesale merchants in the principal ports. The prices in these markets also were furnished by one of the principal concerns in that trade.

These prices, when reduced to a proper basis of comparison—that is, by making due allowance for the difference in quality of oil sold abroad as compared with that sold at home (one cent per gallon is the amount reckoned by the Standard)—show that the prices in the export markets during 1904 and 1905 were much lower than in the domestic market, as stated above. The comparison presented in the Bureau's report is only approximately accurate; for, aside from the somewhat imperfect

character of the data regarding foreign prices and costs of transportation *etc.*, the Bureau's estimate of the average prices in the United States has since been shown, by Standard records, to be somewhat too high. According to the calculations presented in the report on *Prices and Profits*, the net prices of illuminating oil in Germany from June, 1903, to August, 1905, averaged two cents per gallon lower than domestic prices. A similar comparison for English prices from January, 1903, to August, 1905, showed an average difference of 2.2 cents per gallon. These are the two largest export markets. In several other European markets large differences were found. It is possible, indeed probable, that the actual differences between the domestic and the foreign prices were somewhat less than the Bureau computed in this report; but the difference was certainly sufficient to constitute a serious discrimination against the domestic consumer. Standard records subsequently produced in court showed clearly that there was an extraordinary decline in the profits of the foreign marketing companies in 1904 and 1905, and that some of them actually lost money in their illuminating oil trade.

Apologists of the Standard have attempted to justify these low export prices on the ground of conditions of supply. As a matter of fact, however, there was no oversupply of oil in 1904 and in 1905, at which time prices were being cut with special severity. This is shown by the figures of the world's oil production and by the aggregate exports of the five large producing countries; in 1905, indeed, there was a marked decline both in production and exports, yet at that time the price-cutting was very severe. The import statistics of England and Germany, two markets in which this price-cutting was especially conspicuous, show also that for 1904 and 1905 the imports either were practically stationary or declined considerably. Moreover, throughout this period the Standard was active in trying to obtain or to increase its oil-producing and refining interests in foreign countries and was even buying Russian and Roumanian oil for sale in the markets where it was making these low prices. The real cause of the low prices was the desire of the Standard to crush new competitors. While

the Standard was thus dumping American oil in the foreign market at prices often below cost, the American people undoubtedly had to pay the piper; the prices of crude oil were reduced and the domestic consumer was compelled to pay an extortionate price.

The domestic prices, however, were by no means uniform. The general policy of the Standard has always been to charge what the market would bear, taking into account the existence in some places of competition or potential competition of independents. This local discrimination has been one of the most glaringly unjust features of the Standard's price policy. From the extensive returns for December, 1904, as well as from the price records for earlier periods, the report shows the extraordinary and arbitrary character of this price discrimination. The most conclusive evidence secured by the Bureau on this point was from the records of the Waters Pierce Oil Company, which showed the varying margins of profit as calculated by the Standard. These latter records showed, for example, in the first six months of 1904, the following profits per gallon on illuminating oil, according to the divisions of territory in which this company operated: St. Louis division, 0.6 cents; East Texas and Louisiana, 1.8 cents; Missouri, 1.8 cents; Arkansas, 2.8 cents; South Texas, 3.3 cents; Central Texas, 3.5 cents; North Texas, 4.4 cents.

The extreme price differences shown by the Bureau for other localities in the country correspond to similar differences in profit within a given region of supply. The Atlantic seaboard states, all of which have the same or substantially the same sources of supply, show widely different average prices; for example, in December, 1904, deducting transportation costs, the average price of illuminating oil in Delaware was 7.7 cents per gallon, in Pennsylvania 8.7 cents per gallon, in New York 10 cents per gallon, in Florida 12.8 cents per gallon. The states in the region supplied from the refineries of the Lima-Indiana field show similar differences, ranging from 8.5 cents per gallon for Ohio to 13.9 cents for Arkansas.

Individual cities show similar extraordinary differences, which cannot be explained on the ground of difference in size or other

conditions which might be supposed to affect the cost of marketing. For example, deducting freight, the average prices per gallon in December, 1904, were as follows: Worcester, 7.5 cents; Jersey City (near the great Standard refinery at Bayonne), 11.3 cents; Richmond, 7.8 cents; Jacksonville, 12.5 cents. These cities are all supplied from seaboard refineries, under practically the same conditions of cost. The differences represent substantially differences in profit. The letter of the commissioner to the president states: "The evidence is absolutely conclusive that it is the price policy of the Standard Oil Company to take full advantage of all noncompetitive conditions to impose the highest prices possible and to extend such noncompetitive conditions by aggressive price cutting calculated to drive out rivals."

Data presented in court by the Standard Oil Company, subsequent to the Bureau's report, fully confirm the Bureau's conclusions as to price discrimination. They showed wide differences not only in the prices but in the profits per gallon as between different sections of the country and as between different towns. Other statistics presented in court showed by sections and by towns the percentage of the trade controlled by the Standard, and it appears clear that the prices were adjusted according to the degree of competition encountered.

Another striking form of price discrimination practiced by the Standard is found in the method of selling lubricating oils to railroads. The general system under which this business is conducted by the Standard is to supply the various sorts of lubricating oils required by railroads at regular invoice prices, accompanied by a guarantee that the cost of lubrication shall not exceed a stipulated amount per car-mile. Under the terms of guarantee, the majority (though by no means all) of the railroads receive a deduction from, or a repayment of, a part of the original invoice price. The guarantees, however, vary greatly between different roads, with the result that the effective or net prices paid by the railroads are widely different. Data were obtained regarding these contracts and the resultant net prices from 94 railroads. The average proportion of the invoice prices paid by the roads was 83.4 per cent; but the Pennsylvania Rail-

road paid only 49 per cent, while 41 railways paid the full invoice prices. Eight roads paid on an average 57.6 per cent; twelve roads, 74.4 per cent; fifteen roads, 85.5 per cent; and seventeen roads, 95.7 per cent of the invoice prices.

The obvious reason for the very favorable terms made to the Pennsylvania Railroad is that, owing to the fact that it extends throughout the two great eastern oil fields and reaches almost every independent refinery, it is in a position to promote or to check the development of the trade of the competitors of the Standard to an extraordinary degree. It is probable that the Pennsylvania Railroad pays a normal price for the oil it receives, and that most of the other companies pay excessive and, in some cases, extraordinarily exorbitant prices. It has been since developed, indeed, through judicial proceedings, that the profits of the Galena Oil and Signal Company, the branch company of the Standard which handles this business, are extravagantly high. The less favored roads buy their oil of the Standard at prices higher than would be charged by the independents, apparently for two reasons: first, the Standard interests have a powerful voice in the directorates of many of the railways, and, secondly, the Standard is such an important shipper that the railways are afraid to incur its displeasure. To get the general business of transporting the Standard's products, they consent to buy its lubricating oil at excessive prices. This, in its effect on the Standard, is as good as a rebate in freight rates.

#### *Profits and economy effected by the Standard*

This report of the commissioner of corporations also takes up the question of the profits of the Standard Oil Company. The high dividends paid by the Standard, not less than 30 per cent in any year since 1897, do not represent the whole of its earnings. An extreme case is 1903, when a dividend of \$42,877,478 was declared (44 per cent), while the net earnings were nearly twice as great—\$81,336,994 on a capital stock of \$97,448,923. The report points out that the net capital or assets of the company are considerably greater than the par value of the stock, this excess representing accumulated profits. The net book value of the properties and assets of the Standard,



subsequently produced in court, was \$270,217,922 at the end of 1903 (\$359,400,193 at the end of 1906). Even then, however, a profit such as that obtained in 1903 is highly excessive.

Detailed computations are made in this part of the report of the cost and profit in refining and marketing, which are of a too technical nature to be set forth in a brief space. It suffices to give the conclusion, namely, that for these branches of the business, and considering only five Standard refineries working exclusively for the domestic market, the profit is reckoned, on the average, at about 97 cents per barrel of 42 gallons, which is computed to be about 42 per cent on the average investment in refineries and marketing facilities. Of course there is an additional profit on pipe-line transportation.

A very important feature of this part of the report is the discussion of the real influence the Standard has had on the development of the oil trade and the reasons for its supremacy. It is shown by comparison of prices, since the beginning of the industry, that the greatest reductions in the price of refined oil—as measured by the difference between the prices of crude oil and export oil—occurred before the Standard acquired a monopoly, and that since its monopoly was established a large part of the price reductions is equalled by reductions in the rates of railway transportation to the seaboard. Compared with prices of crude oil the domestic prices of illuminating oil and by-products during the last decade have shown a marked advance, as has been shown above.

The great economies obtained by the Standard in pipe-line transportation, in large-scale refining, and in elaboration of valuable by-products, have not led to price reductions. The Standard has pocketed these economies. Its ability to maintain its monopoly position while charging exorbitant prices is not due to superior efficiency, as its defenders claim, but to unfair advantages, namely, exorbitant pipe-line rates to outsiders (or total exclusion of outsiders from use of the pipe lines), unlawful preferences in railroad rates in the transportation of refined products to market, unfair local price-cutting, whereby the small refiner or jobber in oil is not allowed to get a fair price for his oil in the places where he attempts to compete with the Standard, and other unfair marketing methods.

The report estimates that, through its pipe lines, the Standard gets an advantage over outsiders of about three-fourths of a cent per gallon of crude oil, that its greater efficiency in refining may be from one-fourth to one-half of a cent per gallon, while in marketing costs there is substantially no difference. "At the outside, the superior efficiency of the Standard in the three branches of the business combined would not represent a difference in cost of more than one and a half cents per gallon, on the average, for all petroleum products."

On the other hand, the profit of the Standard in its domestic pipe-line, refining and marketing business is computed to average about two and a-quarter cents per gallon above a normal competitive profit (including depreciation and ten per cent on investment). "This means simply that even if the products of independent concerns cost them one and a half cents per gallon more than the Standard's products cost, they could yet make a good profit at prices considerably less than the Standard extorts; in other words, the Standard gives the consumer none of the advantages due to its superior efficiency."

Computations from the figures of the Waters Pierce Oil Company, a marketing concern of the Standard, show that the prices it received in 1903 gave it a profit of 1.9 cents per gallon over and above what was necessary to yield ten per cent profit on its investment, and this excess is in the marketing business alone, as the Waters Pierce Company does not refine oil in this country.

Hence the report concludes that, if the independents were given fair treatment by the railways and the unfair competition of the Standard were put an end to, the independents would be able to sell oil at lower prices than the Standard exacts on the average and yet make a fair profit. If, besides this, the Standard pipe lines were compelled to carry the oil of the independents at reasonable rates, there would not be much difference in the efficiency of the large independents and the Standard. Indeed, if all these unfair advantages were abolished, there is no reason whatever why the Standard should monopolize, or nearly monopolize, the sale of oil in this country.

*Conclusion.*

In November, 1906, a bill in equity was presented to the United States district court in St. Louis, alleging that the Standard Oil Company was a combination in restraint of trade, and was attempting and had, in fact, established by unlawful means a monopoly in the oil trade of the United States contrary to the laws and especially in violation of the Act of 1890, commonly called the Anti-Trust Act, and praying that the court dissolve the same and enjoin the said company and its subsidiary companies and principal stockholders from persisting in such unlawful acts. Evidence is now being taken in this case. The results of the investigations of the Bureau of Corporations have been placed at the disposal of the Department of Justice, and its officers have been giving their aid in the prosecution of the case.

Whatever may be the result of these proceedings, it may be pointed out that, even if the Standard is permitted to continue business in something like its present organization, it can be prevented from exercising an obnoxious control of the trade by three means which are apparently well within the powers of the Federal Government. First, the pipe lines should be obliged to fulfil the duties of common carriers and to transport oil for all shippers at reasonable rates. Second, careful supervision of railway rates and railway management should be established, and all forms of preference to the Standard should be abolished. Third, the system of local price discrimination should be made unlawful, and only such differences should be permitted in local prices as are warranted by differences in the cost of refining the oil and transporting it to the markets of consumption. Regulation of this latter sort has already been successfully established in the states of Kansas and Iowa. Given these three conditions, the Standard would find it impossible to prevent the independent refiner from doing business in all parts of the country, and, if it should continue to do the bulk of the business, it could only be on a basis of reasonable prices and legitimate profits.

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## THE PROGRESS OF THE FILIPINO PEOPLE TOWARD SELF-GOVERNMENT<sup>1</sup>

THE opening of the Filipino Assembly by Secretary Taft on the sixteenth of October was an event of significance in the carrying-out of America's unique colonial policy of attempting to train the people of her tropical dependencies for self-government. The importance of the event makes the present an opportune time for reviewing the political progress of the Filipino people.

There is little reliable information concerning the character of the inhabitants of the Philippine Islands at the time of the Spanish occupation in the forepart of the sixteenth century. The few descriptions we have are in many respects contradictory.<sup>2</sup> Among ethnologists the weight of opinion supports the conclusion that the population was then, as now, principally<sup>3</sup> of Malay ethnic stock.<sup>4</sup>

Dr. David P. Barrows estimates the population of the islands in 1591, on the basis of the number of tributes paid, at 667,612.<sup>5</sup> These Malay peoples seem to have come to the Philippines in a more or less continuous migration, lasting for several centuries, from the region of Sumatra and the Malay peninsula. They were a sea-faring people, and came in sail boats containing from 50 to 100 persons each. The boats were called in the Malay language *balangay*. Usually one family traveled in each

<sup>1</sup>This paper is a revision of an address delivered before the students of Cornell University, March 1, 1907.

<sup>2</sup>Cf., on this subject, the early descriptions contained in the first ten volumes of Blair and Robertson, *The Philippine Islands*.

<sup>3</sup>The one important exception being the Negritos or pygmy blacks, who at the present time number probably somewhere between twenty-five and fifty thousand. Cf. Worcester, *The Non-Christian Tribes of Northern Luzon*, in *Philippine Journal of Science* I, no. 8 (October, 1906), pp. 805-812.

<sup>4</sup>Barrows, *History of the Population*, in *Census of the Philippine Islands*, I, p. 411; Jenks, A. E., *The Bontoc Igorot*, p. 19.

<sup>5</sup>*Phil. Census*, II, p. 17.

balangay. The family was of the patriarchal character and comprised the old man, his children and grandchildren, and all the servants and slaves. These family groups in time came to be called balangay, later *barangay*, after the word meaning boat. The head man was called *datu*, meaning grandfather.<sup>1</sup> His authority was absolute, at least in theory. These barangay appear to have been united into a loose form of town government, the chieftainship of the town being hereditary.<sup>2</sup> There is no evidence of the existence of any such democratic assemblies for the election of chiefs and the conduct of tribal affairs as those of our Germanic forefathers, which contributed so much to the subsequent capacity of Teutonic peoples for self-government.

These primitive Filipino people are said to have gained a livelihood by hunting and fishing and a rude form of agriculture. Some of them are reported to have been acquainted with an alphabet of Sanskrit origin.<sup>3</sup> A few had been converted to Mohammedanism before migrating to the islands. The religion of most of these early Filipino people, however, appears to have been a combination of animism and sabianism. The worship of the spirits of their ancestors played a very prominent rôle in their lives. Coupled with this ancestor worship, possibly a part of it, was the worship of the sun, moon and stars. They practiced divination, believed in witches, and buried slaves alive with their warrior dead.<sup>4</sup>

The following extracts are taken from two of the most authoritative early descriptions of these people.

Legaspi, about 1569 after having been in the islands four years, wrote concerning the Filipinos of Cebu :

These people wear clothes, but they go barefooted. Their dress is

<sup>1</sup> McGovern, D. O., *Civil Government in the Philippines*, pp. 84-86.

<sup>2</sup> "The tribe itself as a body politic is unknown in this archipelago. The Malayan has never by his own effort achieved so important a political organization. Such great and effective confederacies as we find among the North American Indians are far beyond the capacity of the Filipino of any grade." Barrows, in *Phil. Census*, I, p. 453.

<sup>3</sup> *Phil. Census*, 1903, I, p. 412; Leroy, *Philippine Life in Town and Country*, p. 23.

<sup>4</sup> Cf. Plasencia, Juan de, *Customs of the Tagologs (1588-1591)*, in Blair and Robertson, *The Philippine Islands*, VII, pp. 185-196.

made of cotton or of a kind of grass resembling raw silk. . . . They are naturally . . . distrustful, and if one has treated them ill they will never come back. . . . They are a people extremely vicious, fickle [and] untruthful. . . . When these people give or lend anything to one another, the favor must be repaid double, even if between parents and children, or between brothers. At times they sell their own children when there is little need or necessity for doing so.

Privateering and robbery have a natural attraction for them. Whenever the occasion presents itself, they rob one another, even if they be neighbors or relatives. . . . Any native who possesses a basketful of rice will not seek for more, or do any further work until it is finished. Thus does their idleness surpass their covetousness. . . .

I believe that these natives could be easily subdued by good treatment and the display of kindness.<sup>1</sup>

Francisco de Sande, who was governor of the Philippines from 1575 to 1580, said concerning the natives in a letter to Philip IV of Spain:

The natives are all very idle. If they would apply themselves to work a little of the time, they could have all they wanted, but as it is a hot country and they are barbarians, they go naked. Nevertheless, all know how to raise cotton and silk, and everywhere they know how to spin and weave for clothing. . . . In the mountains there are wild boars, deer and buffalo, which they can kill in any desired number. Rice, which is the bread of the country, grows in abundance. Therefore, they are afflicted by no poverty, and only seek to kill one another, considering it a great triumph to cut off one another's heads and take captives.<sup>2</sup>

In reading over these and other early descriptions of the primitive Filipino people, one is impressed by the similarity between their mental characteristics and the typical mental characteristics of the Malay race as they are described to-day. The ethnologist Keane, for example, says: The typical Malay is "normally quiet, reserved and taciturn, but under excitement subject to fits of blind fury; fairly intelligent, polite and ceremonious, but uncertain, untrustworthy and even treacherous;

<sup>1</sup> Quoted in *Phil. Census*, I, p. 493.

<sup>2</sup> *Ibid.*, pp. 493, 494.

daring, adventurous and reckless; musical; not distinctly cruel, though indifferent to physical suffering in others.”<sup>1</sup>

We shall probably not be far from the truth if we conclude that the Filipino people at the close of the sixteenth century were a fairly typical Malay people of the tropics, just emerging from a state of barbarism; and that their civilization was on about the same plane as that of their ethnic kinsmen, the Bontoc Igorot of to-day, with the differences that usually distinguish hill tribes from people of the plains.

Such then was the raw material on which Spain began her work in the Philippines. What sort of a finished product did she turn out as the result of three and a third centuries of colonial administration?

If we are to understand aright Spain's work and influence in the Philippines, we must keep firmly in mind two important facts: First, that Spain's dominant purpose in the Philippines was neither commercial nor political, but religious; it was the conversion of the natives to Christianity, “and the establishment of a great Christian outpost on the frontiers of heathendom.” It is not intended to maintain that political and commercial motives were absent from the minds of Spanish rulers in the extension of the Spanish domains, but that they were, at least in this case, secondary to the religious motive. To Spain the Philippines in the early days were much more of the nature of a mission than of a colony.

The second fact to be constantly born in mind is corollary to the first: it is that during almost the entire period of the Spanish régime practically the only Spaniards in the islands, outside of the few principal cities, were the members of the religious orders commonly known as the friars, who were scattered throughout the archipelago. A monastery and church were established in nearly every village. By a special dispensation of the church the friars quite generally performed the duties of parish priest in addition to the regular duties of their orders. They often had Filipino assistants. In some cases there were Filipino parish priests, and Filipinos occasionally held higher

<sup>1</sup> Keane, *Man Past and Present*, p. 229.

offices in the church. Whatever influence Spain had upon the masses of Filipinos during the three centuries and more of her rule was wielded principally through the friars. It was the friar alone who lived in touch with the people, it was he alone who understood the native dialects. He supervised the tilling of their soil and the harvesting of their crops. He was their teacher. It was to him they went for assistance when in need, for comfort when in trouble. He was their confessor and guide in spiritual matters, and all his acts carried with them that mystical religious sanction which an ignorant and superstitious people are wont to attribute to their priesthood.

The early friars, with few exceptions, appear to have been zealous and conscientious in their work, and to have accomplished much. The work of converting the natives progressed rapidly,<sup>1</sup> and by the end of the seventeenth century the islands are said to have become practically Christianized except for the Mohammedans of the southern islands and the pagan hill tribes of the interior.<sup>2</sup>

In referring to the rapid conversion of the Filipinos to Christianity, it should be noted that in many cases the substance of the old heathen religion was maintained under the forms and names of Christianity. Sinibaldo de Mas, the Spanish diplomat in the Orient, wrote in 1841 :

In disregard of the monks, the Indians secretly circumcise their children. The banyan tree is held sacred. They burn incense under it, which they obtain from the friars under various pretences. How strangely are the rites of idolatry mingled with Christian observance ! "There is no driving out of them," says a *padre*, "the cursed belief that the spirits of their ancestors are in the woods and among the roots of bamboos, and that they can bring good or evil among them."<sup>3</sup>

Despite the persistence of these old religious ideas, and despite the other gross superstitions which permeated and continue to permeate the Christianity of the great majority of the

<sup>1</sup> Friar Ignacio writes in 1585 that according to the common opinion of his day there had been converted and baptized more than four hundred thousand souls. Blair and Robertson, *The Philippine Islands*, I, p. 40.

<sup>2</sup> Leroy, p. 119.

<sup>3</sup> *Ibid.*, pp. 127, 128.



Filipinos, much progress was made, and for upwards of two centuries and a half, that is from about 1571 to the forepart of the nineteenth century, the friars, by their self-sacrifice and religious devotion to duty, exercised a potent and beneficent influence over the Filipino people. During that period they probably accomplished more in the direction of uplifting and civilizing a Malay people than was ever before accomplished in the world's history. In the year 1820 Crawford, "the historian of the Indian Archipelago, who lived at the court of the Sultan of Java as British resident," could say:

Almost every other country of the [Indian] Archipelago is at this day, in point of wealth, power and civilization, in a worse state than when Europeans connected themselves with them three centuries back. The Philippines alone have improved in civilization, wealth and populousness. When discovered most of the tribes were a race of half-naked savages, inferior to all the great tribes who were pushing, at the same time, an active commerce, and enjoying a respectable share of the necessities and comforts of a civilized state. Upon the whole, they are at present superior in almost everything to any of the other races [of the Archipelago.]<sup>1</sup>

The population of the islands is estimated to have increased about 300 per cent from 1591 to 1819.<sup>2</sup>

In bearing witness to the beneficent results of the work of the friars during this period we must not ignore its defects. The people were treated as children, not as men and women; they were taught to believe and to obey, not to think and depend upon themselves. The priest spoke with divine authority; to doubt him was sacrilege; to disobey him was sin; to criticize him was blasphemy. Such a training might make pious souls and prepare them for the world hereafter; it could not make self-reliant men and prepare them for self-government in this world. The French explorer, La Pérouse, writing in the latter part of the eighteenth century, sums up this phase of the friars' work in the following language:

The only thought was to make Christians and never citizens. This

<sup>1</sup> Crawford, *History of the Indian Archipelago, etc.*, II, pp. 447, 448.

<sup>2</sup> Phil. Census, II, pp. 17, 18.

people was divided into parishes, and subjected to the most minute and extravagant observances. Each fault, each sin, is still punished by the rod. Failure to attend prayers and mass has its fixed penalty, and punishment is administered to men and women at the door of the church by order of the pastor. . . . No liberty is enjoyed: inquisitors and monks watch the consciences; the oidors (judges of the Audiencia), all private affairs; the governor, the most innocent movements, . . . in fine, the most beautiful and charming country in the world is *certainly the last that a free man would choose to live in.*<sup>1</sup>

The moral character of the friars, their attitude toward the natives and the attitude of the natives toward them seem to have undergone important changes during the nineteenth century, and particularly during the latter part of the century. The changes were gradual, and due to a variety of causes which time will not permit a discussion of here. Sufficient to say that as the result of many gifts and bequests the monastic orders had become very wealthy<sup>2</sup> by the beginning of the nineteenth century, and, contemporaneously with this increase of wealth, the friars had become more and more jealous of their power.<sup>3</sup> They opposed the bringing-out of more secular clergy from Spain, and they fought bitterly all attempts to instal Filipino priests at the head of curacies.<sup>4</sup> In their jealousy of power they opposed the reform movements undertaken by the Spanish home government during the latter half of the century, and put numerous obstacles in the way of the education and advancement of the masses.<sup>5</sup> There seems to be no question of the fact that during the nineteenth century the character of the friars greatly deteriorated. A large number of them broke all three of their monastic vows, their vow of poverty, their vow of chastity and their vow of obedience. They became possessed of large estates valued at many millions of dollars which they often used for their own individual benefit instead of for the advancement of the religious work of their orders. The vow

<sup>1</sup> Voyage de la Pérouse autour du monde (Paris, 1797), II, pp. 62, 350. Quoted by Blair and Robertson, I, pp. 77, 78. The italics are mine.

<sup>2</sup> Phil. Census, I, pp. 35, 344-346.

<sup>3</sup> *Ibid.*, I, p. 34; III, p. 594.

<sup>4</sup> *Ibid.*, I, p. 34.

<sup>5</sup> *Ibid.*, III, pp. 594, 595.

of chastity was widely broken.<sup>1</sup> Frequently the friars refused to carry out the decrees of their superiors. Commissioner Tavera in a recent article said,

it was a common thing for the bishops to call attention to the fact that the papal bulls and cédulas of the king were alike ignored—and such was indeed the case whenever the provincial heads of the four monastic orders in Manila set their veto on the bulls or cédulas.<sup>2</sup>

The friars being the only Spaniards in close touch with the people throughout the islands, the only ones possessing a thorough knowledge of the native dialects, and the persons through whom the decrees of the church and state must, for the most part, be carried out, had the power to side-track any legislation to which they were opposed. During the latter part of the century they seem to have used this power with a vengeance. It is not intended to assert that during this period all the friars were immoral and abused their power: there were many notable exceptions to whom too much credit cannot be given for highminded devotion to duty in trying times. Such men, however, unfortunately appear to have been in the minority. The opposition to the friars on the part of the Filipinos became very strong during the latter half of the nineteenth century, and the insurrections during that period were directed more particularly against the friars than against the Spanish lay authorities.<sup>3</sup>

The first serious attempt on the part of the Spanish government to provide an adequate system of primary education for the Filipinos was made in 1863. Previous to that time

primary education in the Philippines consisted, one may say with a rough approximation to fairness, of the catechism and the little instruction in the Philippine dialects which was necessary in order for the

<sup>1</sup> A Spaniard who has lived in the islands for upwards of twenty years, who is a well educated and conservative man, and a member of the Catholic church, once told the writer that in his opinion at least ninety per cent of the friars, during the latter days of the Spanish régime, were immoral.

<sup>2</sup> Phil. Census, I, p. 344.

<sup>3</sup> In the revolution of 1898, 40 friars were killed and 300 were imprisoned. *Ibid.*, I, p. 35.

pupils to read the catechism and the few religious books that were translated into the dialects.<sup>1</sup>

In 1863 an elaborate scheme of secular primary education was adopted by Spain for the Philippines. It provided for the establishment of free public schools in all the villages of the Christianized parts of the islands. School attendance was to be made compulsory, and the curriculum was to include reading, writing, arithmetic, instruction in the Spanish language, history, agriculture and music.<sup>2</sup> By 1894 it is said that as many as 173 sets of official provisions regulating the public schools or otherwise relating to the education of the Filipinos had been passed. In few colonies could there have been found a better set of statutory laws and of administrative orders than in the Philippines during the latter years of the Spanish régime; in few, on the contrary, could there have been found a more corrupt and inefficient administration.

A comparatively small proportion of the children of the Islands attended the schools. Theoretically and according to law, secular public instruction was under the control of local school boards of a civil and lay character, and the friars were entrusted only with the supervision of religious instruction; practically the friars controlled the schools "in four towns out of five" and "managed everything about the schools to suit their own will, down almost to the last hours of Spanish rule."<sup>3</sup> Inadequate wages were paid to the teachers; and with few exceptions they were an inefficient lot. Most of the friars were opposed to the teaching of Spanish, fearing that it would result in emancipating the people from their control, and accordingly the much heralded primary instruction in Spanish was largely a farce. It is even said that teachers were "punished and threatened with deportation" for teaching Spanish, and in some cases actually deported.<sup>4</sup> Reading and writing were taught by means of the catechism; church dogma and the lives of the saints formed a prominent part of the instruction. Almost the only history taught was that of Spain, and that "under conventional

<sup>1</sup> Leroy, p. 202.

<sup>2</sup> Phil. Census, III, pp. 578 *et seq.*

<sup>3</sup> Leroy, p. 203.

<sup>4</sup> Phil. Census, III, p. 595.

censorship." The instruction in practical agriculture is described "as a sorry farce."<sup>1</sup> Pupils studied aloud and commonly recited in unison. In a word, the elaborate scheme for primary education, as it was carried out, was calculated to make weak and submissive parishioners, not independent, thinking men and self-governing citizens. As late as September, 1905 (after the American public schools had been in operation in the islands for several years), the superintendent of education said: "Of the 7,000,000 Christianized inhabitants of the Philippines, at least 6,500,000 are helplessly illiterate," contemplating by literacy "at least enough knowledge of a written speech to read the simple language of a newspaper and to set down and accurately keep accounts."<sup>2</sup>

In a discussion of the historic preparation of the Filipino people for self-government only a word need be said on the subject of higher education. At best the university and the few secondary schools reached only an insignificant number of the Filipino people. Some excellent work was done by these schools, and particularly by the Philippine nautical school and by the Municipal Atheneum of Manila under the charge of the Jesuits. But with slight qualification it may be said that the instruction given in all these institutions, from the University of Santo Tomás down to the normal school at Manila, was scholastic in the extreme. Mediæval theology, church history and metaphysics were the all-important subjects; they determined the tone of the institutions. The Spanish engineer probably did not understate the facts when at the close of the eighteenth century, he confessed that "in the sciences Spain was a hundred years behind France, and that in Manila they were a hundred years behind Spain."<sup>3</sup> Commissioner Tavera recently declared:

From the first days of the Spanish sovereignty until its final termination

<sup>1</sup> Phil. Census, III, p. 639.

<sup>2</sup> Rep. of Phil. Com., 1905, IV, p. 408 and note.

<sup>3</sup> Cf. Blair and Robertson, I, p. 78. As late as the middle of the nineteenth century, the Rector of the University of Santo Tomas, the only university in the Philippines, declared that "Medicine and the natural sciences are materialistic and impious studies." Leroy, p. 207.

the object of all teaching appeared to be to avoid anything that was not genuinely Spanish and absolutely accepted by the traditional orthodoxy of the Catholic church. . . . All experimental science and all advances of the human mind in the line of independent thinking, which disregarded tradition and the influence of religious and empirical forms, were . . . anathema.<sup>1</sup>

In considering the preparation of a people for the exercise of self-government, the most important question to ask is: What has been their experience? For if political history teaches anything, it is that democracies develop slowly, and that capacity for self-government is only attained as the result of long training. Here, if nowhere else, people must learn to do by doing. What experience then in popular self-government did the Filipino people have during the three and a third centuries of Spanish rule?

There were three main divisions of the Philippine government during Spanish times. At the head was the central government with headquarters in Manila, presided over by a governor-general with vice-regal powers, having by his side the *Audiencia* or supreme court. The central government had a veto on the legislation of all inferior political units. The Filipino people had practically no part in the central government. Their small representation on the council of administration was ineffectual.<sup>2</sup> Below the central government came the provincial government. Each province was presided over by a Spanish official known as the *alcalde*, upon whom were imposed the combined duties of judge and governor down to the year 1886, when governors were appointed in eighteen provinces and the *alcaldes* were limited to the duties of judges. The governor was assisted by an advisory council, of which only a minority of the members were elected—"and these not by the people at large, but by the heads . . . of the towns of the province."<sup>3</sup> The Filipino people therefore had little voice in the provincial government and exercised no control.

The character of the town government underwent several im-

<sup>1</sup> Phil. Census, I, p. 336.

<sup>2</sup> Schurman, J. G., Philippine Affairs, pp. 29-34.

<sup>3</sup> *Ibid.*, p. 30.

portant changes during the Spanish régime. The town officials were, with few exceptions, Filipinos. For a long time petty governors (known as *gobernadorcillos*), were appointed to rule each town. These petty governors were simply the agents or tools of the provincial governors, or, more often, of the local friars. By the passage of the Maura law in 1893 the form of town government was changed, and additional power was extended to the Filipinos in local affairs. The municipal government under this reform law is thus described in the preliminary report of the Schurman Philippine Commission<sup>1</sup>:

The municipal councils were . . . not bodies controlled by the people. In addition to constant inspection and directions from the provincial junta, every municipal council was liable to warning, admonition, fines and suspension at the hands of the governor of the province. And to make the control from above still more effective, the governor-general exercised jurisdiction over all the municipal tribunals, and was vested with power to discharge members or even the entire tribunal itself.

Even when municipal government had been thus circumscribed the masses of people had no share in it. Suffrage was limited to the "principal people" of the town, and elections were indirect. The "principal people" were present and past office-holders and persons paying fifty dollars land tax. The "principal people" as thus constituted, elected by ballot twelve delegates, and these [delegates] elected the municipal tribunal, which . . . governed the town.

The little power which did belong to the people under this system was largely usurped by the local clergy; for "by custom, and subsequently by law, to the parish priest was given complete supervisory power over the municipal government of his town."<sup>2</sup> The political administration of the Philippines in Spanish times has been well characterized as "a sort of outer garment under which the living body is ecclesiastical."<sup>3</sup>

During the latter years of the Spanish régime the Filipino was not secure in the possession of his property. If he had anything that the friar or other Spanish officials wished, it was

<sup>1</sup> Pp. 182, 183.

<sup>2</sup> Phil. Census, I, p. 35.

<sup>3</sup> Blair and Robertson, I, p. 49.

liable to be taken from him either in the guise of taxes, forced church contributions,<sup>1</sup> or in settlement of some trumped-up charge brought against him in the courts. He was accordingly deprived of the ordinary incentives to providence and thrift, and these virtues he has never developed. We must conclude, therefore, that in experience in self-government, as well as in education and in all the important civic virtues, the close of the nineteenth century found the masses of the Filipino people sadly lacking.

Fortunately the latter decades of the nineteenth century gave promise of better things. By the removal of many trade restrictions and by the opening of the Suez canal, the Filipinos were being brought into contact with the outside world. Filipino students began to study in Europe, and the intelligent classes came to appreciate more and more the backward condition of their country, and to chafe under the yoke of Spanish mediævalism. The revolts against Spain, or more correctly against the friars, in 1872 and 1896 bear witness to this awakening. A most eloquent testimony to it is found in the words of one of Rizal's characters, who says:

The country is not the same to-day as it was twenty years ago . . . . If you do not see it, it is because you have not seen the former state, have not studied the effect of the immigration of Europeans, of the entrance of new books, and of the going of the young men to study in Europe. . . . The experimental sciences have already given their first fruits; it needs only time to perfect them. The lawyers of to-day are being trained in the new teachings of legal philosophy; some begin to shine in the midst of the shadows which surround our courts of justice, and point to a change in the course of affairs. . . . One may accompany the course of Progress in three ways, ahead of her, side by side with her, and behind her. . . . Well now, we in the Philippines are traveling along at least three centuries behind the car of Progress; we are barely commencing to emerge from the Middle Ages. . . . The strife is on between the past, which cleaves and clings with curses to the waning feudal castle, and the future, whose song of triumph may be faintly heard off in the distant but splendrous glories of a dawn that is coming, bringing the message of Good News from other countries. <sup>2</sup>

<sup>1</sup> Cf. Foreman, *The Philippine Islands*, pp. 216-226; Leroy, pp. 151 *et seq.*

<sup>2</sup> Quoted from Rizal's *Noli Me Tangere*, by Leroy, pp. 210-213.



Such then was the situation in the Philippines a short time prior to the American occupation. The Philippines came to us as an unexpected result of the Spanish war. What to do with them we did not know. Every suggested solution seemed to contain serious objections. We could not, in justice to the Filipino people, return the islands to Spain; such a course, moreover, would have been inconsistent with the declared humanitarian grounds upon which we waged the Spanish war. We could not give them independence, because the people were clearly not prepared for it. We could not establish a protectorate and give them internal autonomy, because existing tribal jealousies and political incapacity would have made internal disorder certain; and we could not assume responsibility for the protection of the lives and property of foreigners without at the same time holding the power to meet that responsibility. We could not sell the islands to another power, because public sentiment in the United States would not have countenanced it, and because the sale of the islands to a foreign power might well have caused international complications of a serious character. We could not assume the rôle of a benevolent despot and rule the country as England does her crown colonies, for, whatever might have been the merits of such a policy, it would have been contrary to our national traditions and sentiments and would not have been accepted with favor by the Filipino people. It was accordingly decided that the only practicable course, at all consistent with our national traditions and sentiments and with the ambitions of the Filipino people, was to assume control of the islands ourselves and to extend to their people the rights of self-government as rapidly as they should show their ability wisely to exercise them.

Before discussing the progress of the Filipino people toward self-government since the American occupation, a word will not be amiss concerning the much discussed subject of Filipino national sentiment. There have been three important forces favoring the development of such a sentiment. In the first place, the Filipino people nearly all belong to one ethnic stock: they are Malays. In the second place, they are nearly all believers in the same religion: over ninety per cent of the entire

population are Christians. In the third place, the abuses of the friars and of the other Spanish officials during the latter part of the nineteenth century awakened among the different tribes of the islands a more or less common sentiment of opposition to Spain and in favor of independence. That sentiment in favor of independence grew during the insurrection against the United States and still strongly persists.

No one who has been in the Philippines any length of time can doubt for a moment that the Filipino people, however they may differ on other questions, are to-day overwhelmingly in favor of independence.<sup>1</sup> That fact was clearly shown in the recent Philippine election. There is no word which sounds so sweet to the Filipino's ear as the word *independencia*. To the masses of the people *independencia* is a magic thing which they do not understand but which they intensely want; it is a panacea for all evils, the secret of prosperity and the key to the millennium. Just what it is they do not know, but they know that they want it.<sup>2</sup> There is unquestionably at present a vague but developing sentiment of nationality. The obstacles in the way of the rapid development of such a sentiment are very great, although slowly disappearing.

In the United States we are accustomed to speak of the Filipino people as if they were one homogeneous people. One of the facts that impresses the average American most on traveling through the Philippines is the remarkable isolation of different sections of the islands and even of neighboring villages. At the time of the American occupation there were only about 120 miles of steam railroad in the entire archipelago—a country of about two and a half times the area of New York state. There are now about 200 miles in operation, and about 700 miles in process of construction. Facilities for steamship communication among the islands are very meager; there are few roads that can be used by vehicles and many of these cannot be used during more than eight months of the year.

<sup>1</sup> *Infra*, p. 72.

<sup>2</sup> Cf. Hearings before the Secretary of War and the Congressional Party, *etc.*; Manila, Aug. 29, 30, 1905; pp. 6-29.

A surprisingly large number of different dialects is often spoken within a small range of territory. The recent census divides the native population into twenty-four different tribes of which sixteen are wild or savage tribes. The division is tentative and more or less arbitrary. Among the eight so-called civilized tribes there are several times that number of mutually unintelligible Malay dialects or sub-dialects. In 1904 the writer wished to send out a notice to all the people with reference to the new currency; the notice was printed in twenty-one different languages, dialects and sub-dialects, including two Arabic dialects, three varieties of the Bisayan dialect, and two varieties of the Bicol dialect. These circulars did not begin to cover all the dialects and sub-dialects of the islands. In a country where the people are geographically and intellectually so isolated as these facts imply, where there is no common language, literature or tradition, it is hardly necessary to say that any strong sentiment of nationality must develop slowly.

What have we done to prepare the people for self-government, and how have they responded to our efforts?

In a broad sense it may be said that nearly all of the many reforms the American government has brought about in the islands during the last nine years have been factors in the work of preparing the Filipinos for self-government. More specifically to that end, however, two lines of work were undertaken. The first was to educate the people through a system of free public schools, and the second was to train them directly by extending to them the powers of popular self-government as rapidly as they should prove themselves capable of wisely exercising them.

Hardly had the treaty of Paris been signed before the work of establishing free primary schools was begun. Soldiers in the volunteer army were at first detailed to the work of teaching. One of the four great administrative departments into which the Philippine civil government was divided was that of public instruction. It was early decided to establish primary schools throughout the islands, and to place within the reach of every Filipino child the privilege of a primary education. The elaborate plans adopted and now being carried into effect go

much further than primary education. But that comes first, and it is upon that that the greatest emphasis is being placed. Space will not permit an outline of the history of this interesting feature of our work in the Philippines. Sufficient to say that, notwithstanding apparently insurmountable obstacles, much hostile criticism and a number of serious mistakes, an extensive and efficient public-school system is being rapidly established. The plan contemplates three years of primary instruction for all children in the Christian provinces between the ages of six and fifteen, this primary instruction to include three years of English, two years of arithmetic and one year of elementary geography. Supplementary to the primary instruction, all the important towns are to have intermediate schools, which will give three to four years more instruction in the common branches and some work in the natural sciences, as well as courses in agriculture and shop-work and courses for the girls in practical housekeeping. Above the intermediate schools there is to be a provincial high school in the capital of every province. There are also in Manila a normal school and a well-equipped trade school. A medical school has recently been established.<sup>1</sup> The plan is being rapidly put into operation.

How have the Filipinos responded to the public school privileges offered? Experience so far permits a most encouraging answer to this question. From the inauguration of the public school system the Filipinos have swarmed to the schools in such numbers that they could not be accommodated. Every year has shown a large gain in numbers, and recently it has been necessary to raise the age limit to prevent overcrowding. The enrolment in March, 1906, amounted to over 365,000 pupils. This body of pupils was under the instruction of over 800 American teachers and over 6000 native teachers. One of the most hopeful characteristics of the Filipino people is their ambition for an education. They are for the most part zealous and work hard. They are taking kindly to the work in agri-

<sup>1</sup> Act no. 1415 United States Philippine Commission (usually cited as Act 1415 U. S. P. C.).

culture and the mechanic arts, despite their reputed aversion for manual labor.

A little learning, however, as might be expected, frequently gives them excessive self-confidence from which they do not seem readily to recover. There are not wanting many intelligent people in the islands who hold the opinion that it will require two or three generations before the newly acquired learning of the masses will be tempered by anything that we may call sanity of judgment on public questions.

Let us next consider the Filipino as a voter and as an office holder. The policy of the administration was recently described by Governor-General Smith as "the evolution of a government by Americans assisted by Filipinos into a government of Filipinos assisted by Americans, and the education and preparation of the people for popular self-government."<sup>1</sup> To that end the rights of suffrage have been rapidly extended, and preference has been shown to Filipinos in the filling of all public offices. The number of Filipinos in the civil service is large and increasing. It is true that the higher and more responsible positions are to a great extent filled by Americans, but it is the policy of the administration to place Filipinos in these positions as soon as they are found able to fill them.

A few words concerning the present organization of the government will be necessary in order to give an idea of the extent to which Filipinos participate. There are three spheres of government now, as in later Spanish times; the municipal or local government, the provincial government and the central government.

In the sphere of local government Filipino autonomy is almost complete. In 1906 over ninety-nine and a third per cent of all office-holders in the local government were Filipinos. The great majority of local officials are elective.<sup>2</sup> The government of each municipality<sup>3</sup> is "vested in a president, a vice-president and a municipal council" containing from eight to eighteen

<sup>1</sup> *Philippine Official Gazette*, IV (1906).

<sup>2</sup> Phil. Comm. Rep., 1906, I, p. 121.

<sup>3</sup> The municipal government is based upon the Philippine Municipal Code (act no. 82, U. S. P. C.) and its amendments.

councillors according to the population of the municipality. Councillors hold office four years.<sup>1</sup> The suffrage in the Philippines is limited to male citizens twenty-three years of age or over, who can "speak, read and write English or Spanish," or who own real property to the value of \$250, or who pay \$15 or more in taxes, or who were office-holders above a certain rank during the Spanish régime.<sup>2</sup> The president is the chief administrative officer of the town and has limited judicial powers. Municipal finances are in the hands of a municipal treasurer appointed by the provincial treasurer, subject to the approval of the provincial board.<sup>3</sup> The principal judicial officer of the town is the local justice of the peace, who is appointed by the Philippine commission from a list of suitable persons, submitted, formerly by the provincial board, but since March 30, 1907, by the district judge of the court of first instance.<sup>4</sup>

It is in the municipal government that the capacity of the Filipino people for self-government can best be tested. Practically all local officials are Filipinos. The absolute number of local officials is large, amounting at the present time to 10,842.<sup>5</sup> In this sphere of government the Filipinos have had more experience both as voters and as office-holders than in any other.

How has Filipino local self-government succeeded? It is impossible to give a positive answer to this question. The available evidence is meager, and what there is, is often contradictory. Moreover, opinions of those in close touch with the situation frequently differ widely.

If in asking the question: Has Filipino local self-government succeeded? one means, has the right been exercised in such a way as to justify the policy of the administration in giving the people local autonomy, I believe the evidence justifies an affirmative answer; but only from the point of view of success as an educational measure, as an instrument in the work of preparing the people for popular self-government. If, on the other hand, it

<sup>1</sup> Until recently the term of office of municipal councillors was two years. Cf. Municipal Code, sec. 3, and act no. 1582 U. S. P. C., sec. 3.

<sup>2</sup> Act no. 1582, U. S. P. C., sec. 13.

<sup>3</sup> Act no. 1681, U. S. P. C.

<sup>4</sup> Act no. 1627, U. S. P. C.

<sup>5</sup> Fifth Annual Report of the Executive Secretary, 1906, p. 98.

is meant to ask whether experience has justified the frequent contention that the Filipino people are now capable of exercising an efficient popular self-government, I would answer emphatically, no; and in so doing I believe I am expressing the opinion of at least nine-tenths of the Americans and Europeans who have spent any considerable time in the islands. During the two and one-half years I was in the Philippines I never talked with an American or European resident of the islands who believed we were going too slowly. The almost universal opinion among them is that, if we are making any mistake, it is in extending to the people the privileges of self-government too rapidly. The Filipinos have undoubtedly, against severe odds, exercised the political privileges accorded them in the sphere of local government more satisfactorily than their hostile critics expected, and, what is more encouraging, *there are distinct signs of improvement*. In most municipalities the elections have been orderly, and a large number of the officials elected have been capable men. But, while freely granting this, the facts, I believe, force us to the conclusion that the present character of municipal government in the islands would be intolerable as a permanent situation.

The Spanish administration of the islands during the greater part of the nineteenth century was corrupt, from the central government in Manila to the local government in the municipalities, and the Filipinos were for generations given such lessons in political corruption that it is exceedingly difficult for the average native to believe that a government official can be free from graft. In fact he is altogether too liable to look upon graft in office as the normal and expected thing. The following facts and opinions, taken from official documents or from the writings of conservative men who are pro-Filipino in their sympathies, will support this conclusion.<sup>1</sup>

The three principal municipal officers are the municipal president, the municipal treasurer and the justice of the peace.

<sup>1</sup> In the interpretation of the figures that follow it should be born in mind that "for obvious reasons the Government has acted on the theory that Filipino officials ought not to be as yet . . . held up to the standards required of Americans." Fifth Annual Report of the Executive Secretary, 1906, p. 68.

At the end of the year 1905 there were about 600 municipal presidents in the islands. During that year charges were brought against 122, and in 51 of these cases the presidents were found guilty. The four principal charges upon which convictions were made were, in the order of their importance: (1) neglect of duty, (2) abuse of position, (3) malversation and breaches of trust, (4) bribery and kindred crimes.<sup>1</sup> At the end of the year 1906 there were 678 municipal presidents in the islands. During that year charges were brought against 55; in 16 of these cases the presidents were found guilty, in seven not guilty, while in 32 the charges are classified as "filed without action by governor-general." The principal charges upon which convictions were made in 1906 were: (1) abuse of official position, (2) neglect of duties, (3) violations of law, (4) extortion.<sup>2</sup>

The official reports do not give the figures concerning municipal treasurers. It is a well-known fact, however, that there has been a large amount of speculation among these officials in recent years.

The supervisor of fiscals said in his report for 1904 concerning the native justices of the peace<sup>3</sup>:

I have . . . referred to the incompetency and ignorance of many of the justices of the peace. Instead of "many" I could have said "most," and might even have employed a stronger term. . . . Sometimes, and only too frequently, in addition to their ignorance these justices are found to be either grossly dishonest or else under the influence of a sharp and tricky secretary . . . who from his superior education and intelligence, dominates the justice of the peace, exercises a strong influence and preys upon the wretched inhabitants of the community. With these men the motto in all too many cases is, "a public office is a public graft," and they prey upon the poor people of the country like wild beasts. . . . I trust I may not be charged with drawing too lurid a picture of this evil. My endeavor is to state only facts as they have come to my knowledge, not only during the last year, but in several years' previous experience in these Islands.

<sup>1</sup> Phil. Comm. Rep., 1905, I, pp. 101, 115.

<sup>2</sup> Fifth Annual Report of the Executive Secretary, 1906, pp. 93-95, 98.

<sup>3</sup> Phil. Comm. Rep., 1904, III, p. 415.



Of the 620 justices of the peace in the islands in 1905, 124 resigned, and 29 were removed for cause. One hundred charges were proven against justices of the peace during the year 1905, of which 23 were for extortion, 17 for breaches of financial trusts, 12 for various kinds of "graft," and 39 for the common crimes of abusing power, including the malicious ordering of arrests. Only two charges of incapacity were proved.<sup>1</sup> In February, 1906, an act was passed reorganizing the justice of the peace system and since that time there has been a marked improvement in the character of the justices.<sup>2</sup> During the year 1906 there were 624 justices of the peace in the islands and charges were brought against only 47. Of this number, one was found not guilty, 12 were found guilty and action was suspended in the case of 34.<sup>3</sup>

The records show that, in 1903, 76 municipal officials (exclusive of municipal treasurers) were removed on charges. In 1904, the number increased to 79 and, in 1905, to 106.

The record for 1906, though not a bright one, shows distinct signs of improvement. During that year 212 municipal officials (exclusive of municipal treasurers) were tried. Of this number 51 were found not guilty, 69 were found guilty and action was suspended in the case of 92. Against these 212 persons 379 different charges were made; convictions were sustained in 148 charges, no action was taken in 165, while the officials were found not guilty in 66.<sup>4</sup>

An investigation made in 1906, by direction of the governor-general, of the municipal elections in the province of Oriental Negros, brought out the surprising fact that 92 out of the 157 councillors elected, or 59 per cent, lacked the legal qualifications for their offices. Each of the disqualified persons, however, had taken an oath of office in which he had solemnly sworn that he possessed the qualifications prescribed by law. There had been no protests against the election of these dis-

<sup>1</sup> Phil. Comm. Rep., 1905, I, pp. 114 *et seq.*

<sup>2</sup> *Ibid.*, 1906, I, pp. 57, 107, 108.

<sup>3</sup> Fifth Annual Report of the Executive Secretary, 1906, pp. 93-95, 98.

<sup>4</sup> *Ibid.*, pp. 93-95.

qualified persons, and in every case the election had been confirmed by the provincial board.<sup>1</sup>

When we pass from the local government to provincial and central government the evidence concerning the present political capacity of the Filipinos is fortunately more favorable.

The provincial government of each of the 37 provinces is in charge of a provincial board consisting of three members: (1) the provincial governor, who in the Christian provinces is regularly a Filipino,<sup>2</sup> and who is elected every two years by popular suffrage<sup>3</sup> at the same time that delegates to the Philippine Assembly are elected; (2) the provincial treasurer, who at present, in every case, is an American, and who is appointed by the governor-general with the consent of the Philippine Commission; (3) the third member, who was until recently an American appointive officer,<sup>4</sup> but who in the future is to be a Filipino elected by popular suffrage at the regular biennial elections. The provincial board in the civilized provinces will accordingly henceforward consist of two Filipinos and one American. Most of the other provincial officers are Filipinos. They held 75 per cent of the provincial offices in 1906.<sup>5</sup> The positions are largely appointive, under the examination requirements of the Philippine civil-service law.

<sup>1</sup> Fifth Annual Report of the Executive Secretary, 1906, pp. 67, 68. The Executive Secretary referring to the above situation says that it "can be explained only on the ground of dense ignorance, gross negligence, or wilful and deliberate perjury. The provincial board (which investigated the situation) ascribes it to negligence. . . . In a province where such negligence abounds, it is difficult to understand how good autonomous government can be expected. This disgraceful condition of affairs . . . naturally brings up the question whether like conditions exist in still other provinces, or whether the trouble is merely local. I am unable to answer the question for lack of data, but it certainly was not local in Oriental Negros."

<sup>2</sup> In 1906, 29 of the 38 provincial governors in the Islands were Filipinos, and 9 were Americans. The number of provinces was reduced to 37 on July 2, 1907, by the annexing of Romblou to Capiz. *Philippine Official Gazette*, V (1907), pp. 401, 402.

<sup>3</sup> Until the law of January 9, 1907, elective provincial governors were elected by the members of the various town councils of their respective provinces.

<sup>4</sup> Originally the third member was the provincial supervisor, a civil engineer. When the position of supervisor was abolished, the position of third member was usually given to the district superintendent of schools.

<sup>5</sup> Fifth Ann. Rep. of Exec. Sec., 1906, p. 97.

Opinions differ widely as to the ability of the average Filipino provincial governor, until recently the only elective official of importance in the provincial government. The powers of the governors have heretofore been so circumscribed by the two American members of the provincial board that it is impossible to pass a very definite judgment concerning their efficiency. Many of them are respected everywhere for integrity and ability; unfortunately some of them are not. There has undoubtedly been a large amount of corruption in connection with gubernatorial elections. Of the 32 provincial governors elected in 1903, the elections of 13 were contested. Twelve of these were subsequently confirmed by the civil governor on the ground, that although "in a number of the cases, . . . grave irregularities" existed, the evidence offered was not such as to show that they altered the results.<sup>1</sup> The elections of 15 of the 29 provincial governors elected in 1905 were contested "upon various grounds, such as alleged purchase of votes, coercion and intimidation of voters, allowing unqualified persons to vote, and the use of marked ballots." The governor-general reported that "all the regular elections" were confirmed but two.<sup>2</sup>

The number of removals and resignations at request or under charges, of provincial officials in 1903 was 15, in 1904 it was 12 (for thirteen months), in 1905 it was six and in 1906 it was only one.<sup>3</sup>

Now that the municipal and provincial governments have been considered, let us pass to the central government. The chief executive of the Philippine Islands is an American governor-general appointed by the president of the United States with the consent of the Senate. There are four large administrative departments, each presided over by a secretary. The departments are highly centralized, and all the secretaries are Americans appointed by the president of the United States, with the consent of the Senate. A large and increasing proportion of the officers and clerks employed in the various departments are Filipinos.

<sup>1</sup> Phil. Comm. Rep., 1904, I, 36.

<sup>2</sup> *Ibid.*, 1906, I, pp. 81, 116-120.

<sup>3</sup> Fifth Ann. Rep. of Exec. Secretary, p. 32. The above figures include a few Americans.

The judiciary of the central government consists of a supreme court of seven members appointed by the president of the United States, a court of land registration, and fifteen district courts. Three of the seven judges of the supreme court, including the chief justice, are Filipinos, as likewise is the judge of the court of land registration, and ten of the twenty-two judges of the court of first instance.<sup>1</sup>

The more important Filipino officials in the executive and judicial departments of the central government, as well as the Filipino members of the Commission, are almost without exception honest and capable men who hold the respect of the entire community. These men, however, can hardly be considered as proof of the political capacity of the Filipino people, and that for three reasons: (1) they are very few in number, (2) they have been appointed and not elected, (3) a large proportion of them are not of pure Filipino blood.

The central legislative body is composed of two houses: (1) the upper house or the Philippine Commission, consisting of the governor-general, the four American secretaries of departments, and three Filipinos, all appointed by the president of the United States; and (2) the lower house or Philippine Assembly, for which elections were held on July 30, 1907,<sup>2</sup> and which convened for the first time on October 16. The Assembly consists of 80 members, elected by popular suffrage<sup>3</sup> and "apportioned . . . among the provinces as nearly as practicable according to population." A delegate's term of office is two years. The Assembly possesses coördinate legislative powers with the Philippine Commission.<sup>4</sup>

<sup>1</sup> *Philippine Official Gazette*, V (1907), pp. 471, 472.

<sup>2</sup> Cf. act no. 1582 U. S. P. C., entitled "An act to provide for the holding of elections in the Philippine Islands, for the organization of the Philippine assembly, and for other purposes," passed January 9, 1907. *Philippine Official Gazette*, V (1907), pp. 109-122.

<sup>3</sup> The suffrage qualifications are the same as those for electors in municipal elections. *Supra*, p. 65.

<sup>4</sup> Provision is made in the act of Congress, approved July 1, 1902 (sec. 7): "That if at the termination of any session the appropriations necessary for the support of the Government shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated; and until the Legislature shall act in such behalf the Treasurer may, with the advice of the Governor, make the payments necessary for the purposes aforesaid."

The campaign preceding the election of July 30 was an intense one. It was characterized by brass bands, bonfires, and political oratory of a type that would have made our revolutionary fathers envious. Party feeling ran high, and the political boss<sup>1</sup> was a dominant factor in the election. The electors made up in enthusiasm what they lacked in numbers, for the number qualifying as electors was very small, and the total number of voters was only about one and one-fourth per cent of the 7,000,000 odd Christian population. The three principal parties were the Nationalistas, the Independientes and the Progresistas. The first two parties, favoring immediate independence, elected 64 of the 80 assemblymen, while the Progresistas, the survivors of the old Federal party, favoring the present status with a promise of ultimate independence, elected but 16.

An election so overwhelmingly in favor of the parties pledged to seeking immediate independence naturally fanned for the moment the smouldering embers of the insurrection. A few enthusiasts lost their heads, publicly paraded the *katipunán*, the flag of the insurrection, and insulted the American flag.

These and other similar excesses aroused the better classes of Americans throughout the islands. The commission passed an amendment strengthening the sedition law,<sup>2</sup> and enacted a law penalizing the public display of insurrection flags and paraphernalia.<sup>3</sup> A large patriotic mass meeting of Americans was held in Manila on August 23 to protest against the insults to which the American flag and the American name has been subjected.

The Philippine assembly was convened October 16 by Secretary Taft. It would be premature to pass judgment with

<sup>1</sup> Philippine elections have from the beginning been largely controlled by bosses known as *caciques*. "The *cacique*," as recently defined by Judge L. R. Wilfley, formerly attorney-general of the Philippines, "is usually the natural leader of the community, and exercises power by reason of natural cleverness, or by reason of local religious or political conditions." *Caciquism* is an old Malay institution, and "it is safe to assert that the rule of the *cacique* is one of the most prolific sources of oppression, discontent and disorder in the islands." Dr. David P. Barrows said in 1903 (Phil. Census Rep., III, p. 647): "The race lends itself naturally and without protest to the blind leadership and cruel oppression of the aristocracy."

<sup>2</sup> Act. no. 1692 U. S. P. C.

<sup>3</sup> Act no. 1696 U. S. P. C.

reference to that body at this time. The post-election storm has subsided. Secretary Taft was received enthusiastically by all parties, and there are not wanting hopeful signs of a better feeling in the near future than has existed in the past.

In conclusion, I believe we can say that our experience in the Philippines so far but emphasizes the truth of the commonplace principles, that a people cannot suddenly break with their past, that democracies are evolved not made, and that capacity for self-government is not like Jonah's gourd, the growth of a day, but is a sturdy plant of slow growth, and that only in the soil of experience. The most successful self-government in the world to-day is probably that of the Anglo Saxon races; but eleven centuries elapsed between the time when Tacitus described the democratic assemblies of our Germanic forefathers, and the time when King John gave to the English barons the great charter of English liberties; nearly six centuries more elapsed before the ratification of the American constitution. It was but three centuries to the battle of Manila Bay from the time that the early Spanish missionaries described the patriarchal institutions of the primitive Filipino people who were then just emerging from barbarism. During those three centuries of Spanish tutelage the Filipinos were converted to a mediæval form of Christianity and attained a certain degree of civilization—a civilization higher in fact than that of any other Malay people. But whatever may have been the merits of Spanish tutelage—and it had many—it was not of a character to develop ability for popular self-government. It developed dependent children, not independent citizens. During the last half century or more of Spanish control the government was corrupt and the friars were false to their duty. Several decades before the American occupation there were distinct signs of a Filipino awakening, and the more intelligent classes began to seek better things. It was not, however, until the close of the century that the Filipino people began to receive any real training in the exercise of self-government.

Nature has decreed that political evolution shall proceed slowly, and, to quote the striking words of a recent writer: "What was decided among the prehistoric protozoa cannot be

annulled by act of parliament."<sup>1</sup> Still it is true that the progress of political evolution, as well as of biologic, can be greatly expedited and to a large extent directed by the creation of a favorable environment and by the mechanism of artificial selection. Fortunately the Filipinos are not pioneers in the field of popular self-government, as were our Germanic forefathers; they have the benefit of the world's experience and the guidance of a benevolent nation.

The Filipinos, however, are still deficient (as they were when Legaspi first described them) in those moral qualities which are the foundation stones of popular self-government. The masses of the Filipino people have yet to learn the lessons of political honesty, of thrift and of self-reliance; they have yet to learn that political office is a public trust. Possibly the United States is not the best teacher of this lesson; it must be learned none the less. They have yet to learn that mutual concession, the graceful yielding of the minority to the will of the majority and respect for the rights of others are essentials of successful democracy. Not until they have developed these homely civic virtues can they expect to have an efficient self-government. Intellectual education is an important factor in capacity for self-government; it is not however the only one, nor the one most difficult to develop. The great work now before the Filipino people is the development of these sturdy civic virtues. It is at best a herculean task for a Malay people, living in the tropics, with the historic training of the Filipinos. They must not expect to accomplish it in a day.

E. W. KEMMERER.

CORNELL UNIVERSITY, October, 1907.

<sup>1</sup> Geddes and Thompson, *Evolution of Sex*, p. 267.

## THE EARLY ENGLISH COLONIAL MOVEMENT. I.

**T**HE expansion of England in the seventeenth century was not the result of isolated or fortuitous circumstances, but, like all great historical developments, it was intimately connected with the main currents of the world's political evolution. In one of its broadest phases, the colonial movement was an episode in the perennial conflict between the two antithetical extremes, East and West. The original aim had been to enter into direct commercial relations with the Far East and even to acquire possessions in those semi-legendary lands of fabulous riches. In a somewhat narrower aspect, English expansion in America formed part of the Protestant Revolt, in so far as it sprang from opposition to the efforts of Philip II, as leader of the Counter-Reformation, to bring England again within the Catholic fold. From an even more restricted viewpoint, the movement was intimately connected with the politico-religious controversies of seventeenth-century England, when were established those fundamental principles upon which are based, not only the present constitutions of Great Britain and of the United States, but also the political civilization of the entire western world. Disregarding these broader aspects of the subject, it is intended merely to examine the contemporary ideas underlying the colonial movement, with the especial object of discovering what advantages England expected to derive from transmarine possessions.

As man was the agent, a movement so extensive in scope as was the expansion of England was necessarily complex in its nature, corresponding to the manifold intricacy of both individual and social psychology. For every historical development presents two distinct aspects from which it must be viewed—that of the man personally engaged therein, and that of the group supporting and superintending it. The movement under consideration must therefore be regarded both from the attitude of the individuals actually carrying on the work of settlement, and from the viewpoint of the organized body poli-



tic that encouraged and directed it. An analysis of the different sets of motives operating in these two separate fields of action is essential to a full understanding of the early English colonial movement. The former gives an insight into the actual process of colonization; the latter explains the nature of the control exercised by the parent community and gives the clue that explains its colonial policy. It is chiefly upon this latter phase that attention will be concentrated.

In order to acquire a clear understanding of English colonial policy, it is above all essential to know why the state encouraged colonization, and what compensating advantages it expected to derive from American possessions in return for the responsibilities it assumed in sanctioning the movement. To the extent that the colonization of America was an act of the English state, it was fundamentally an economic movement. But naturally it was not solely economic in nature, for no extensive development can be reduced to so simple a category. Yet in the case of all movements influenced by a number of motives, one is always the prime cause without which the others would have proven ineffective, and the movement, if conceived at all, would have been abortive. Such subsidiary motives were, however, potent contributing factors, leading to unanimity in the body politic, and hence to well-directed, unhampered efforts by the government, and so to successful action. Consequently, before entering upon an analysis of the underlying economic ideas, it will be advisable to examine some of these subsidiary motives.

The bitter conflict between Spain and England that occupied the reign of Elizabeth directed the attention of Englishmen to America. They gradually realized that Philip II's power rested ultimately upon the stream of wealth that flowed into his coffers from the mines of New Spain, and that America was the main bulwark of the cause of the Counter-Reformation. Thus, in 1583, Sir George Peckham, one of the leading spirits in the colonial movement, drew attention to the great riches Spain was deriving from America, and sought to awaken his countrymen "out of that drowsie dreame wherein we have so long slumbered," in order that they might colonize America, because by

so doing they would strengthen England and correspondingly weaken her inveterate enemy.<sup>1</sup> Likewise, in the following year, Richard Hakluyt pointed out that Spain's monopoly of the resources of America was dangerous to Europe, and that the adoption of a policy of expansion by England would curb Philip II's power.<sup>2</sup> These men and their associates realized that English national autonomy could be made more secure by the creation of a colonial empire in America.

This idea led to no permanent results at the time, but it persisted during the era of actual settlement, despite the fact that James I had concluded peace with Spain. The Elizabethan tradition retained its popularity, and Spain continued to be the arch-enemy with whom war seemed more natural than peaceful relations. At the time of Virginia's settlement, it was urged that the colony could furnish a place of retreat for English ships in the event of such a war.<sup>3</sup> Similarly the London Company, in its ill-fated petition of 1624 to the House of Commons, said that one of the objects held in view when the colony was founded, was the "inestimable advantadge, that would be gayned to this state of England in case of Warr both for the easie assaultinge of the Spanyards West Indies, from those parts, and for the relievinge and succouringe of all Shippes and men of Warr that should goe on Reprysalls."<sup>4</sup> The idea of attacking the Spanish West Indies was a very popular one,<sup>5</sup> and in 1637 it was even asserted that there was no other advantageous way to make war upon the king of Spain.<sup>6</sup> The realization of the fact that the colonization of America was an indirect attack on Spain, which would strengthen the cause of Protestantism, was

<sup>1</sup> Hakluyt, VIII, pp. 95, 96.

<sup>2</sup> Hakluyt, Discourse concerning Western Planting, pp. 45, 52 *et passim*. Maine Hist. Soc. Coll., series ii, vol. ii.

<sup>3</sup> William Strachey, about 1612. Brown, Genesis, II, p. 562.

<sup>4</sup> Virginia Co. (ed. Kingsbury), II, p. 526; London Co. (ed. Robinson and Brock), II, p. 265.

<sup>5</sup> Cf. e. g. Sir Charles Cornwallis, A Discourse of the most Illustrious Prince, Henry, late Prince of Wales. (London, 1641). This was written in 1626. Harleian Misc., IV, p. 322.

<sup>6</sup> Cal. Col., 1574-1660, p. 257, no. 61.

unquestionably influential in gaining national support for an imperialistic policy, but at most it was only a minor factor in inducing the government of the first two Stuarts to support the movement.

Another determining element which brought to the support of the colonizing movement a large group of persons, to whom neither the anti-Spanish or national argument nor the purely economic view would have especially appealed, was the religious interest evoked by the prospective conversion of the savages to Christianity. Hakluyt,<sup>1</sup> Peckham<sup>2</sup> and Carleill,<sup>3</sup> all conspicuous figures in the work of expansion, laid stress on the probable extension of Christianity through the conversion of the Indians. At various times the Virginia Company and its supporters asserted that this was one of the chief aims of the enterprise.<sup>4</sup> This argument was even more frequently advanced by Puritan writers. The spread of the gospel was stated by the Massachusetts Bay Company to be its chief purpose in founding the colony;<sup>5</sup> and one of its prominent supporters, Emanuel Downing, claimed that the majority of the settlers went "to transport the gospell to those heathen that never heard thereof."<sup>6</sup> It

<sup>1</sup> Hakluyt, Discourse, p. 7.

<sup>2</sup> Hakluyt, VIII, pp. 97 *et seq.*

<sup>3</sup> *Ibid.*, p. 143.

<sup>4</sup> 1610, in Brown, Genesis, I, p. 339; 1624, in Virginia Co., II, p. 525, and London Co., II, pp. 263, 264. The author of *Nova Britannia*, a famous pamphlet published in 1609 in support of the Virginia enterprise, claimed that on the one hand it would spread the kingdom of God, and on the other that it would prove very advantageous to the nation. Force, I, no. 6, pp. 6, 7. Captain John Smith also pointed out that "the gaining Provinces addeth to the Kings Crown: but the reducing Heathen people to civilitie and true Religion, bringeth honour to the King of Heaven." Smith, *Travels* (ed. 1907), I, p. xxv. See also Smith's statement in Purchas, XVIII, pp. 437, 438, and Virginia's Verger, *ibid.*, XIX, pp. 222, 230, 231, 237.

<sup>5</sup> On April 17, 1629, the Massachusetts Bay Company wrote to the governor and council in the colony that as 'the propagating of the gosp<sup>o</sup> is the thing (wee) doe profess aboue all to bee o' ayme in settling this plantation, wee haue bin carefull to make plentyfull provision of godly ministers.' Col. Records of Mass., I, p. 386.

<sup>6</sup> Downing to Secretary Coke, December 12, 1633: 'This plantation and that of Virginia went not forth upon the same reasons nor for the same end, those of Virginia went only for profit . . . these went upon 2 other designes some to satisfie their owne curiosity in poynt of conscience, others w<sup>th</sup> was more generall to transport the gospell.' Coke MSS., owned by Lord Walter T. Kerr, and located at Melbourne Hall, Derbyshire, England.

was asserted in a conspicuously able Puritan pamphlet, published in 1630, that "it hath beene manifested that the most eminent and desirable end of planting Colonies, is the propagation of Religion."<sup>1</sup> Its author went even further, and used the argument that nowadays is frequently advanced to justify tropical colonization and is succinctly summed up in the phrase, "the white man's burden," to vindicate the Puritan colony's attitude toward the Indians. He claimed that "the greatest advantage must needs come unto the Natives themselves," whom we shall teach providence and industry.\*

Though this religious motive figured very prominently in the writings of the day—the spread of Christianity is specifically mentioned as one of the objects in view in nearly all the colonial charters from that of Gilbert on—yet it cannot be considered as one of the underlying causes of the movement. While superficially prominent, fundamentally the idea was subordinate. The individual who settled in America was primarily interested in gaining what was at best a precarious livelihood; the colonizing companies were mainly intent upon earning some return on their capital;<sup>3</sup> and the government was not, except possibly to a very minor degree, influenced by the prospective conversion of the aborigines. Yet this motive was unquestionably a contributing factor, not only in bringing to the support of the movement many to whom otherwise it would not have appealed, but also in giving that ethical basis to the work without which it is impossible for the Anglo-Saxon to exert himself to the fullest degree.

There was also a strong political motive for the movement, for then, as well as now, increased area and population were considered as strengthening the state: directly, by adding to its power and resources, and indirectly, by enhancing its pres-

<sup>1</sup> *The Planters Plea*, in *Force*, II, no. 3, ch. i, p. 12.

<sup>2</sup> *Ibid.*, ch. iv, p. 15.

<sup>3</sup> In his well-known sermon, preached before the London Company in 1610, *Crashaw* dwelt on the general apathy shown toward the enterprise, and attributed it to the absence of present profit. "Tell them," he said, "of getting XX. in the C. [20 per cent]. Oh how they bite at it, oh how it stirres them! But tell them of planting a Church, of converting 10.000. soules to God, they are senselesse as Stones: they stirre no more then if men spoke of toies and trifles." *Brown*, *Genesis*, I, p. 360.

tige and standing. Thus, in 1638, Sir Ferdinando Gorges wrote to Secretary Windebank urging the expediency of "supportinge forreigne plantacons," on the ground that "nothinge adds more glorie and greatnesse to anie nation, then the enlargement of theire Territories the multiplyinge of their subjects." On more exhaustive analysis this motive will, however, appear to be chiefly economic in its nature.<sup>1</sup>

These motives—the desire to weaken Spain, to spread the Christian religion, to increase England's power and prestige through additional dominions—were all contributing factors conducive to well-directed action, but they were not the essentially causative influences back of English expansion. From the standpoint of the state, as opposed to that of the emigrating individual, the colonizing movement was essentially an economic one. In sanctioning the settlement of America, the English government assumed concrete and definite responsibilities, and expected that in return certain compensating advantages would accrue to the parent community. These advantages were chiefly economic and are to be considered under two categories. In the first place, the movement must be considered in its relation to social conditions in England, especially in connection with the current views about the size of its population. In the second place, it will be necessary to examine the prevailing economic theory of colonization.

### I. *Emigration and overpopulation*

Although English colonization in the early seventeenth century was mainly directed toward regions with an indigenous population, it did not take the form of political domination and economic exploitation of subject peoples, but implied the transfer of a comparatively large number of Englishmen from the mother country to the dependent communities. The nature of the movement and the origins of English colonial policy cannot

<sup>1</sup> Thus Gorges went on to say that additional territory and population would result in an "increase of Trade and Commerce; which alwaies brings w<sup>th</sup> it encrease of shippinge and mariners; matters, this kingdome of all others hath most reason to be carefull of, in that, our safetie doth much consist therein." Baxter, Gorges III, pp. 287-291.

be understood without an analysis both of the conditions causing this dislocation of population and also of the attitude of the government toward it.

The subject is of no inconsiderable importance, for this is one of the factors that determine the policy of the metropolis toward the colony. If a state needs additional territory for its increasing numbers, a status of economic inferiority for the colony is of doubtful expediency and of questionable justice. For if in any case there is to be emigration, the mother country derives a distinct benefit from territorial expansion in not losing the allegiance of her departing subjects.<sup>1</sup> But if, on the other hand, the state has no surplus population and is called upon to protect the dependency, then the mother country must in her own interest seek some means of deriving from the colony compensating advantages, such as exclusive privileges in trade. Otherwise the parent state would be in a stronger position without the burdensome responsibilities arising from the possession of dependencies.<sup>2</sup>

The former condition prevails in the modern British Empire, and has existed ever since the industrial revolution transformed the social structure of Great Britain and made it a predominantly manufacturing community. A rapidly expanding population confined within a limited area has overflowed into the colonies and into foreign countries. Hence it has been in the direct interest of Great Britain to favor colonization, as otherwise the emigrants would lose their nationality and would thus negatively or relatively, if not positively or actually, weaken the mother country. It is patent that, if those emigrating did not leave the limits of the empire, the strength of Great Britain would be less impaired than if they gave up their allegiance and aided in building up the life of a foreign and rival political aggregate. Consequently, under such conditions, the commercial relations of colony and metropolis have been left

<sup>1</sup> Even at this time, Sir Ferdinando Gorges pointed out that one advantage derived from New England, despite its independent spirit, was that otherwise those emigrating there might have settled in foreign states to the prejudice of England's manufacturing interests. Gorges, *A Briefe Narration* (London, 1658), p. 63. *Maine Hist. Soc. Coll.*, series i, vol. ii.

<sup>2</sup> Cf. Fortrey, *England's Interest and Improvement* (Cambridge, 1663), p. 39.

unrestricted, because in return for protection the dependency performs a distinct service. This service is passive and implies no sacrifice, while that of the mother country is active and necessitates the assumption of many onerous burdens by the British taxpayer.

Prior to the completion of the industrial revolution, diametrically opposite conditions prevailed. During the two centuries reaching back from that date to about the Restoration in 1660, England had no surplus population. During this long period, emigration from England to America, even though it was of slight dimensions, was viewed with great alarm. The prolonged duel with France emphasized the comparative smallness of England's population, even adding thereto that of Scotland and of Ireland. Thus, in 1670, a well-known economic and political writer, Roger Coke, said that "Ireland and our Plantations, do in proportion to England more exhaust it of men, than the West-Indies do Spain;" and that, while Spain gained new subjects in her colonies, "we in our Plantations wholly people them from our selves." Coke maintained that England's existing military inferiority to France was due to this emigration, and he pointed out that before the era of colonization England had usually been successful in her wars against France and Scotland.<sup>1</sup> Finally, he said that "Ireland and our Plantations Rob us of all the growing Youth and Industry of the Nation, whereby it becomes weak and feeble, and the Strength, as well as Trade, becomes decayed and diminished."<sup>2</sup> So general was this view that, in 1689, the representatives of Barbados, then the richest of English colonies, felt called upon to answer the current accusation that America was weakening England. They pointed out that the population of any country depends upon its economic productivity, and said, "'tis strange we should be thought to diminish the People of England, when we do so much increase the Employments" on which the size of its population depends.<sup>3</sup> However valid this argument may be, at

<sup>1</sup> Roger Coke, *A Discourse of Trade* (London, 1670), pp. 12, 13. <sup>2</sup> *Ibid.*, p. 46.

<sup>3</sup> *The Groans of the Plantations* (London, 1689), pp. 29 *et seq.* In 1663, one of the prominent early English economic writers even advocated the encouragement of immigration into England because "people and plenty are commonly the begetters the one of the other." Samuel Fortrey, *op. cit.* pp. 4-13.

the time it was not convincing. From about 1660 on, colonies, in so far as they decreased the population of the mother country, were looked upon as sources of weakness. Consequently, if England assumed the heavy responsibilities incidental to the establishment of a colonial empire, counterbalancing advantages must be derived in some other way. This fact to a great extent accounts for the old colonial system, whose aim was to develop English industry and trade by creating a self-sufficient commercial empire in which the colonies were to supplement the economic activities of the mother country.

In the first half of the seventeenth century, when was laid the basis of the British Empire, and when were somewhat tentatively inaugurated those principles regulating colonial trade that later crystallized in the colonial system, the attitude toward emigration was similar to that of modern England. There prevailed in general the impression that England was too densely populated, and that additional territory was necessary to support her surplus numbers. Thus Malynes,<sup>1</sup> one of the few economic writers of the day whose name is deservedly not quite forgotten, treated colonization and population as integrally related topics, favoring the former as a remedy for the existing excess in the latter. Anticipating Malthus, he pointed out that "unless the three great Impostumes of the World, namely Wars, Famine, and Pestilence, do purge that great Body, all Kingdoms and Countreys become very populous, and Men can hardly live in quiet, or without danger." Though Malynes greatly overestimated the actual population of England, his view as to its superabundance was the general one. Even his bitter antagonist, Misselden, agreed with him. "If the people of this Kingdome were numbered from *Dan* to *Bersheba*, I am perswaded," Misselden wrote, "there were neuer more people, neuer lesse employment: neuer more Idlenes, neuer so much Excesse."<sup>2</sup> This writer drew a dark picture of England's industrial condition, claiming that the imports exceeded the

<sup>1</sup> Gerard de Malynes, *Consuetudo, vel Lex Mercatoria*, or the Ancient Law Merchant (3d ed., London, 1686), pp. 164-169. The first edition was published in 1622.

<sup>2</sup> Misselden, *Circle of Commerce or The Ballance of Trade* (London, 1623), p. 133.



exports; and he asserted that "the *Poore* sterue in the streets for want of labour."<sup>1</sup>

Naturally, those interested in the colonial movement and desirous of seeing it succeed, freely used the argument that colonization would remedy both the congested state of England and also the economic and social evils resulting therefrom. Thus, in 1576, Sir Humphrey Gilbert, in the course of his discourse on the northwest passage to the East, said: "Also we might inhabite some part of those countreyes, and settle there such needy people of our countrey, which now trouble the commonwealth, and through want here at home are inforced to commit outragious offences, whereby they are dayly consumed with the gallowes."<sup>2</sup> According to him, one of the chief benefits arising from colonization would be the greater employment of the poor in England. Similarly Sir George Peckham, who was closely associated with Gilbert in the work of exploration, favored colonization as a means of increasing English trade and of thus giving greater employment to the poor at home, who "doe now live here idly to the common annoy of the whole state."<sup>3</sup> Another of the pioneers in the colonial movement, Christopher Carleill, the son-in-law of Sir Francis Washington, advanced the same views. In 1583 he asserted that, on account of the long period of peace, England's population had greatly increased, and that such a colony would be a boon to "our poore sort of people, which are very many amongst us, living altogether unprofitable, and often times to the great disquiet of the better sort."<sup>4</sup> The following year Richard Hakluyt, the enthusiastic supporter of maritime enterprise, pointed out that there were many unemployed and many vagabonds in England, and that as a consequence of the absence of wars and plagues, "wee are growen more populous than ever heretofore"; from which, he added, resulted severe competition for a livelihood, as well as crime and idleness. If the colonization of America were undertaken, Hakluyt said, "these pety theves mighte be condemned for certen yeres in the western partes," where they could pro-

<sup>1</sup> Misselden, *Circle of Commerce or The Ballance of Trade* (London, 1623), p. 132.

<sup>2</sup> Hakluyt, VII, p. 286.

<sup>3</sup> *Ibid.*, VIII, pp. 111, 112.

<sup>4</sup> *Ibid.*, VIII, p. 143.

duce useful commodities.<sup>1</sup> Finally, Sir Ferdinando Gorges, who though of a later generation, ranks with Gilbert, Peckham, Carleill and Hakluyt as one of the leaders in the work of expansion, wrote to Salisbury in 1611 about the activity of the English pirates in the Channel, pointing out that "this peaceable tymes affords no meanies of employments, to the Multitude of people that daylie doe increase, and manie ar inforced (by necessitie) to seeke some wayes, to sustaine themselves," and consequently have turned to piracy. "To meete w<sup>th</sup> these necessities," he pointed out, "the Ages past hath employed great cost in the planting of Colonies in barbarous and uninhabited partes of the world to the great honor of these Prynces."<sup>2</sup>

Such views were frequently expressed, after the work of colonization had actually commenced, and were conspicuously used in gaining support for the Virginia enterprise.<sup>3</sup> With this object in view there was published in 1609 an able pamphlet entitled *Nova Britannia*. The author thereof pointed out that two things were necessary for the success of the colony—money and people. As regards the latter he had no misgivings, as England had "swarmes of idle persons, which hauing no meanes of labour to relieue their misery, doe likewise swarme in lewd and naughtie practices." England, he argued, had a superabundant population and, like the Goths and Vandals, should encourage emigration; "so that you see it is no new thing, but most profitable for our State, to rid our multitudes of such as lie at home, pestering the land with pestilence and penury, and infecting one another with vice and villanie worse than the plague it selfe."<sup>4</sup> In another pamphlet, published in the same year,<sup>5</sup> the colonization of Virginia was urged because

<sup>1</sup> Hakluyt, Discourse, pp. 36, 37.

<sup>2</sup> Baxter, Gorges, III, pp. 171-173.

<sup>3</sup> See, e. g., Richard Crakanthorpe's sermon of 1609, in Brown, Genesis, I, p. 256. He speaks of "the great and manifold benefits which may accrue to this our so populous a nation, by planting an English colony in a territory as large and spacious almost as is England."

<sup>4</sup> *Nova Britannia*, p. 19. Force Tracts, I, no. 6.

<sup>5</sup> Robert Gray, *A Good Speed to Virginia* (London, 1609), p. 10. Brown, Genesis, I, p. 298.

there is nothing more dangerous for the estate of Commonwealths, than when the people do increase to a greater multitude and number than may justly paralell with the largenesse of the place and Countrey : for hereupon comes oppression, and diverse kindes of wrongs, mutinies, sedition, commotion and rebellion, scarcitie, dearth, povertie, and sundrie sorts of calamities, which either breed the conversion, or eversion, of cities and commonwealths.<sup>1</sup>

The company that undertook the settlement of Virginia also insisted, officially and unofficially, on the benefit that would in this manner accrue to England. In 1610 it was said, with the sanction of the officers of the company, that one of its purposes was "transporting the rancknesse and multitude of increase in our people; of which there is left no vent, but age; and evident danger that the number and infinitenesse of them, will out-grow the matter, whereon to worke for their life and sustentation, and shall one infest and become a burthen to another."<sup>2</sup> Similarly, in a pamphlet<sup>3</sup> published in 1612 by the authority of the royal council of Virginia, it was asked: "What man is so simple that doth not see the necessitie of employment for our multitude of people? which they though they be our flourishing fruits of peace and health, yet be they no longer good and wholesome in themselves." The author of this pamphlet argued at length that England had a surplus population, and that it was impossible in so great a body of people, "which

<sup>1</sup> In 1609, there was also published a sermon on Virginia, in which the author, William Symonds, said: "Look seriously into the land [England], and see whether there bee not just cause if not a necessity, to seek abroad. The People, blessed be God, doe swarme in the land, as young bees in a hive in June; insomuch that there is very hardly roome for one man to live by another. The mightier like old strong bees thrust the weaker, as younger, out of their hives." As a remedy he urged "the younger bees, to swarme and hive themselves elsewhere." Symonds, *Virginia* (London, 1609), pp. 19, 20. Brown, *Genesis*, I, p. 288. William Strachey, in his pamphlet on Virginia, written probably in 1612, said that the colony was "a fruitfull and pleasant country to seat and settle the swarmes of our ranck multitude, who tast in this our owne clyme nothing but of Idlenes, Prophannes, and want." Brown, *Genesis*, I, p. 340.

<sup>2</sup> "A True and Sincere Declaration of the Purposes and Ends of the Plantation begun in Virginia." Brown, *Genesis*, I, p. 338.

<sup>3</sup> *The New Life of Virginia: Being the Second part of Nova Britannia*, pp. 21-23. Force I, no. 7.

yeerely doe increase amongst us," to prevent poverty, corruption and disease; consequently he concluded that colonization was advisable. Similarly, in its petition of 1624 to the House of Commons, the London Company stated that one of the advantages arising from Virginia would be "the removal of the surcharge of necessitous people."<sup>1</sup>

The same arguments were used in connection with the settlement of New England. A pamphlet of 1630, in support of the Massachusetts enterprise, called attention to the fertility of its soil, and remarked that it was a great pity that this land should remain "altogether unoccupied, when so many honest Men and their Families in old England through the populousness thereof, do make very hard shift to liue one by the other."<sup>2</sup> In another and similar pamphlet published at the same time<sup>3</sup> it was demonstrated to the satisfaction of the author, that England was overpopulated, because of the number of unemployed, the crowded state of all vocations and the number of people engaged in making superfluous luxuries. Hence the colonization of America was favored, and it was argued that England's ability and fitness for this work "will evidently appeare by the consideration of our overflowing multitudes: this being admitted for a received principle, that Countreyes superabound in people when they have more than they can well nourish, or well employ."<sup>4</sup>

From this review of contemporary thought it is apparent that the general opinion was that England was overpopulated,<sup>5</sup> and that colonization would afford relief to this congested condition by removing the poor and unemployed.<sup>6</sup> At the outset it was

<sup>1</sup> Virginia Co., II, pp. 526-528; London Co., II, p. 264.

<sup>2</sup> New-Englands Plantation (London, 1630), p. 12. Force I, no. 12.

<sup>3</sup> The Planters Plea (London, 1630), chap. i, p. 9. Force II, no. 3.

<sup>4</sup> Similarly, in 1641, it was said that "when a Kingdom beginneth to be overburthened with a multitude of people (as *England* and *Scotland* now do), to have a convenient place where to send forth Colonies is no small benefit: and Such are the North-east and North-west parts of America." A Petition of W. C., exhibited to the High Court of Parliament (London, 1641), p. 6. Force I, no. 13.

<sup>5</sup> Toward the end of James I's reign, it was pointed out that the English towns were overcrowded, and hence needed a "vent for their people into Virginia," even if they should have to defray the cost of transporting the people. MSS. of Lord Montagu of Beaulieu, p. 109. Hist. MSS. Com.

<sup>6</sup> In 1623, it was proposed to found a royal colony in America, by means of which

the intention of some to establish mere trading stations in America, but the later and more general aim was to found new communities.' The government directed and supported the movement on this basis, and one of the advantages expected therefrom was relief from an excessive population. Thus, in 1614, the Spanish ambassador in England wrote to Philip III that he had heard that the London Company had asked for permission to withdraw the settlers from Virginia, as the enterprise had turned out so expensive, but that this request had been denied, it being suggested that "it was well to preserve that place, altho' it be good for nothing more than to

England might annually rid herself of 3,000 poor, and "the prisons may be emptied, and much blood saved as well as relief given to many by sending them thither." Cal. Col., 1574-1660, pp. 50, 54, 56; Cal. Dom., 1623-1625, p. 521. At this time also, Secretary Conway suggested that England join with the Dutch in a West Indian voyage, and that some enterprise be undertaken to draw off idle people from England. Cal. Dom., 1623-1625, p. 143. The same arguments were used to support Scottish colonization. Thus in Sir William Alexander's patent for New Scotland, dated Sept. 10, 1621, James Stuart, as king of Scotland, said: "We thinking how populous and crowded this land now is by Divine favor" have judged it important that many should be settled on new territory. Slafter, Alexander, p. 128. Alexander himself said that Scotsmen were well qualified for the work of colonization, having daring minds and strong bodies, and besides "Scotland by reason of her populousnesse being constrained to disburden her selfe (like the painfull Bees) did every yeare send forth swarmes" to fight in foreign wars. Alexander, *An Encouragement to Colonies* (London, 1624), p. 38. William Vaughan reported Alexander as having said: "In such abundance doth my native Countre of *Scotland* overswarmed with people, that if new habitations bee not suddenly provided for them, as Hiues for Bees, they must either miscarie of want, or Turne Droanes unprofitable to the *Owner*"; we have too many laborers in Scotland who "would willingly manure this maiden Soile . . . but the charge of transporting them with such implements and domesticall cattell, as must be had now at the first, cannot but grow to an excessive cost." William Vaughan, *The Golden Fleece* (London, 1626), I, pp. 3-6. The same argument was also used toward the end of the century in connection with the Darien enterprise. In 1700 it was said: "We have a Foreign Plantation, which may not only to our Profit, take off the Native Product of our Country, but may be for Receiving, and competently Intertaining a great many People which may be spared therefrom." A Letter from One in the Country, to a Member of Parliament (1700).

<sup>1</sup> In R. Rich, *Newes from Virginia*, published in London in 1610 (Brown, *Genesis I*, p. 420), we read:

"Let England knowe our willingnesse,  
For that our worke is good,  
Wee hope to plant a nation,  
Where none before hath stood."

kill people and to afford an outlet to them from here; since in this Kingdom here they grow and multiply so as to be innumerable."<sup>1</sup>

This entire subject of the relation between social conditions in seventeenth century England and the colonial movement must, however, be regarded also from another viewpoint. While on the one hand it is evident that expansion was favored as a means of alleviating the congested state of England, on the other the question arises, whether or not the actual displacement of population was due to existing economic distress. Did the current contemporary opinion correspond with actual conditions, and was the founding of new communities in America the result of overpopulation and of economic pressure in the mother country? From an examination of the conditions that prevailed in England, it would appear that the existing population did not exceed the country's productive capacity. It is generally recognized that, from the latter half of Elizabeth's reign until the outbreak of the Civil War, England was in a flourishing condition. In fact this very prosperity implied economic distress among some classes. As civilization advances, it becomes more complex, and economic progress, while denoting an absolute increase in wealth, has hitherto implied a more uneven distribution thereof and greater extremes of riches and poverty. Such a period of progress, almost tantamount to an economic revolution, dates from the latter years of Elizabeth's reign. Wealth increased greatly, but at the same time pauperism became a permanent evil. This comparatively new phenomenon was little understood. The law of development from incoherent homogeneity to coherent heterogeneity had not yet been enunciated. For virtually the first time Englishmen beheld as an every-day sight "the spectacle of Dives and Lazarus existing side by side."<sup>2</sup> Hence the conclusion was reached that England was too densely populated to support its inhabitants,

<sup>1</sup> Brown, *Genesis II*, p. 681.

<sup>2</sup> H. de B. Gibbins, *Industry in England* (New York, 1903), pp. 260, 261. The increase in pauperism was emphasized by the fact that the Reformation had removed the ecclesiastical organization, which in the middle ages was accustomed to care for the poor.

and that colonization would afford a palliative if not a remedy for this evil. Thus, in ultimate analysis, colonization was favored as a cure for pauperism. It was desired to transport the indigent and dependent from crowded centres, especially from London, thus freeing the parishes from the burden of their support. In this respect, however, the movement was a distinct failure.

The emigration from Europe to America in the nineteenth century was mainly economic in nature, being predominantly due to the increasing severity of the struggle for existence. The movement of the seventeenth century was radically different. The bulk of the people who settled in New England left the mother country for religious and political reasons. They objected both to the practices of the Anglican church under the direction of Laud, and to Charles I's theory of the kingship and his attempt to rule independently of Parliament.<sup>1</sup> As far as the other colonies were concerned, the motives leading to emigration were in general more material. Many left their homes as a result of an adventurous spirit, and many also sailed to America in order to acquire riches quickly. But this does not to any extent whatsoever imply that they left on account of economic pressure at home. America, both on account of its dangers and its immeasurable possibilities, appealed strongly to those who disliked a humdrum life of quiet and ease. The views of many Englishmen were voiced by the contemporary dramatist, who said, in connection with such an adventurer: "Who would not sell away competent certainties to purchase (with any danger) excellent uncertainties?"<sup>2</sup>

<sup>1</sup> See, e. g., Cal. Dom., 1637-1638, p. 88; *ibid.*, 1638-1639, pp. 64, 430, 431.

<sup>2</sup> Eastward Hoe (1605), act ii, scene i.

The commercial and colonial movements were integrally and inseparably connected. Ordinary commerce was beneath the dignity of the upper classes in England, but armed commerce in the East or in the West, with the hazard of capture by a foreign foe and the more or less speculative prospects of immense profits, appealed to the imagination and adventurous spirit of English gentlemen and called forth their enthusiastic support. As was said in 1615: "Nor is England, bounded by our Horison, to go no further than we see. We have learned, long since, that *Mercatura si tenuis sordida, si magna splendida*; The stranger the Country, the greater the Adventure." The Trade's Increase. Harl. Misc., IV, p. 207.

Apart from the emigration to New England, and that to the West Indies and Virginia during the disturbances of the Civil War,<sup>1</sup> the movement was not only of small extent but was predominantly non-spontaneous in character. Great difficulty was encountered in getting settlers for Virginia.<sup>2</sup> In 1621, Sir Edwin Sandys frankly told the House of Commons that at first they could get none to go to that colony.<sup>3</sup> In the same year it was pointed out by a competent authority how unwilling people were to settle in this colony and in the Bermudas.<sup>4</sup> Even in the case of Massachusetts, although it was to be the refuge of those who disagreed with the dominant religious and political party in England, somewhat similar conditions obtained. In 1632, Sir Richard Saltonstall found it strange that "the meaner soart of people" should be so backward in emigrating, and that the "better soart of people should not helpe y<sup>e</sup> poorer with meanes to transport them."<sup>5</sup>

This difficulty led to various schemes of assisted emigration. The city of London, where the evil of pauperism was most accentuated,<sup>6</sup> spent considerable money in settling some of its dependent children in Virginia.<sup>7</sup> At various times contracts were concluded with the Virginia Company for the transportation of such children to the colony, the city paying part of the expense and the company the balance.<sup>8</sup> But some difficulty

<sup>1</sup> Clarendon, *History of the Rebellion* (ed. Macray), V, pp. 262, 263.

<sup>2</sup> Cf. *Commons Journal*, I, p. 488. In 1618, a pretended commission to press maidens for the Bermudas and Virginia frightened away forty girls from one parish, who fled to such obscure places that their parents could not find them. *Cal. Dom.*, 1611-1618, p. 586. Cf. *ibid.*, p. 594, and *Virginia Magazine of History and Biography*, VI, pp. 229, 230.

<sup>3</sup> *Commons Journal*, I, p. 579.

<sup>4</sup> Brown, *First Republic*, pp. 398-400.

<sup>5</sup> Saltonstall to Emanuel Downing, Feb. 4, 1632. Coke MSS.

<sup>6</sup> Misselden, *Circle of Commerce* (London, 1623), p. 137, speaks of the large number of poor in London and their increase through indiscriminate charity.

<sup>7</sup> There is extant a letter from the council and company of Virginia to the city of London which states that the Privy Council being "desirous to ease the city and suburbs of a swarme of unnecessary inmates, as a contynual cause of dearth and famine, and the very originall cause of all the Plagues that happen in this Kingdom," has advised you to contribute to their emigration to Virginia. Brown, *Genesis*, I, p. 252.

<sup>8</sup> *London Co.*, I, pp. 24, 36, 70, 91; *Virginia Co.*, I, pp. 270, 271, 293, 300, 304-307, 355, 411, 412; *Cal. Dom.*, 1611-1618, p. 584.



was encountered, as the worst disposed, of whom especially the city wished to rid itself, refused to go,<sup>1</sup> thus forcing the company, on one occasion at least, to apply for a warrant from the Privy Council to enforce its agreement.<sup>2</sup> In addition to paying the expenses of those emigrating to America, other expedients were adopted to overcome the difficulties encountered in obtaining settlers for the new communities. Thus, in 1632, seventy vagrants were bound as apprentices for service in Virginia and Barbados.<sup>3</sup> Similarly, delinquents and criminals were reprieved on the condition that they go to America, and, at not infrequent intervals, men of this type were transported to the colonies.<sup>4</sup>

Apart from the inertia prevailing in the lower classes, there were additional factors that made it absolutely impossible for the poorest classes in England—those most adversely affected by the change in social conditions—to emigrate freely. The present westward movement from Europe is taking place under conditions differing radically from those that prevailed in the seventeenth century. Nowadays the cost of passage is insignificant, and there is the virtual certainty of finding, immediately on arriving in America, the means of gaining an adequate livelihood. The poorest classes can thus readily change their environment. At the outset of the colonial movement, not only was the cost of transportation very high, but furthermore considerable time was required before a living could be secured from America's virgin soil. Hence the settlement of an individual in the colonies implied the expenditure of a considerable sum of money. The mere passage to America involved the outlay of a large amount: as a rule, £6.<sup>5</sup> But in addition, the emigrant had to be equipped with tools, clothing and provisions,

<sup>1</sup> Cal. Dom., 1619-1623, p. 118.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*, 1631-1633, p. 433.

<sup>4</sup> Virginia Co., I, pp. 212, 259, 288, 290; London Co., I, pp. 33, 34; Cal. Dom., 1619-1623, pp. 10, 552; *ibid.*, 1635, pp. 262, 535; *ibid.*, 1635-1636, p. 437; *ibid.*, 1638-1639, p. 425; *ibid.*, 1639-1640, pp. 183, 349.

<sup>5</sup> In 1619, the cost of passage to the Bermudas was £5, to Virginia £6. Manchester MSS., H. M. C., VIII, 2, p. 33, no. 243; London Co., I, p. 23; Virginia Co., I, pp. 275, 295, 455. In 1632 transportation to Providence Island cost £6, and in 1639 the same amount was charged for passage to Maryland. Cal. Col., 1574-1660, p. 140; Calvert Papers, I, p. 206.

which necessitated the expenditure of a much greater sum: about £14 more for each settler.<sup>1</sup> Toward the end of James I's reign, the adherents of the London Company said that "the charge of transporting a personne to Virginia can not be lesse at this day than Twenty poundes, which being a thing soe well known must needs disharten all future planters from goinge."<sup>2</sup>

From the standpoint of the day this was a considerable sum; and obviously a person possessing it was by no means in economic distress, and hence, if emigrating, would be actuated by other influences.<sup>3</sup> As a consequence also the poorer classes could not emigrate without assistance.<sup>4</sup> This led to the system of indentured labor, the emigrant giving his services to a master for a longer or shorter term, usually for five years, in return for the cost of transportation.<sup>5</sup> But the semi-servile conditions prevailing under this system were naturally not attractive, and to a great extent counteracted any stimulus toward emigration arising from economic distress. Other circumstances worked in the same direction. In addition to the risk of shipwreck,

<sup>1</sup>About 1623 it was estimated that the cost of transporting and of furnishing six settlers in Virginia with victuals, apparel, tools, and arms was £114 19s. 6d. Cal. Col., 1574-1660, p. 56.

<sup>2</sup>Col. Pap., III, 32. For further details regarding the requirements of a colonist, see Purchas, XIX, pp. 165-167, and John Josselyn, *Account of Two Voyages to New England*, 1638, 1663 (London, 1675), in *Mass. Hist. Soc. Coll.*, series iii, vol. ii, pp. 220-225.

<sup>3</sup>In its efforts to secure settlers for Virginia, the London Company in 1620 offered to settle children in the colony on payment of £5 a head. At the meeting of the company held on November 15, 1620, Mr. Smith pointed out "that the sume of five pound demanded w<sup>th</sup> everie Childe that should be sent out of the Country to be transported to Virginia was a greater charge then would willingly be disbursed by the Common sorte, seeinge they might w<sup>th</sup> a lesse charge as ordinarily for five Marks binde their Children Apprentizes att home to good Trades and therefore itt was vnlikely they would be drawne to give a greater sume to send them to a forraigne country he therefore moved that the 5<sup>th</sup> specified in the Plantation might be abated to five Marks." *Virginia Co.*, I, p. 424; *London Co.*, I, p. 96. Cf. also *Virginia Co.*, I, pp. 479, 480, 489, 556.

<sup>4</sup>In order to be able to emigrate on its own resources, a family had to be in fairly comfortable circumstances. In 1621, an apothecary offered to transport himself and his wife to Virginia at his own charge, provided the company would pay the cost of carrying over his two children. *London Co.*, I, pp. 131, 132; *Virginia Co.*, I, p. 495.

<sup>5</sup>Bruce, *Economic History of Virginia*, II, pp. 4, 5.

which was ever imminent in the case of the small vessels of the day, conditions during the passage were extremely rigorous. Overcrowding and poor food resulted in a large mortality.<sup>1</sup> Furthermore, on arrival in America, there had to be encountered the grave Indian danger, and the perils of a strange climate and unaccustomed food-stuffs which an unhygienic age could not circumvent. Of the early settlers in Virginia a very large majority perished from disease or at the hands of the aborigines.

Recapitulating these facts, it will become apparent that economic conditions in England had made pauperism a permanent phenomenon, and that this little understood social evil gave rise to the generally prevailing but erroneous idea that England was overpopulated. In turn this opinion induced many to support the colonial movement, and was an influential factor in gaining the government's aid for the work of expansion. One of the distinct advantages expected from the colonies was relief from congestion and pauperism in the mother country without at the same time diminishing the number of British subjects. This view was naturally reflected in British colonial policy, and to some extent explains the comparatively unrestricted commercial system that prevailed during the first half-century of the Empire's life. But while the impression that England was overpopulated gave a potent stimulus to the colonial movement, economic conditions in the mother country were to no marked degree a direct cause of the ensuing transfer of population to America. In general, England was prosperous, and while there was a certain amount of want, those affected by it could not, on account of the large capital required, spontaneously settle in America except under semi-servile conditions. In the main the dislocation of population was produced, not by economic conditions, but by the political and religious conflicts of the age.

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(*To be continued.*)

<sup>1</sup> Manchester MSS, H. M. C., VIII, 2, p. 41, no. 338.

<sup>2</sup> *Ibid.*, p. 42, no. 340. Cf. p. 38, no. 298; pp. 44, 45, no. 361. See also Bruce, *Social Life of Virginia*, pp. 16, 17.

## THE PROBLEM OF THE HOUSE OF LORDS

THE present situation in British politics offers a problem of exceptional interest to students of constitutional history and practice. The question at issue is not a choice between rival schemes for an ideal political system, nor even, as lately in relation to the Transvaal, the invention of a brand-new constitution suitable to a peculiar emergency. It is the modification of an existing scheme of government in harmony with the traditions of a country which has no liking for violent substitutions, but prefers to patch up its old wine-skins as long as they can by any means be made to endure the fermentation of new times without serious risk of explosion. What we are now concerned with, therefore, is not so much the general advantages and disadvantages of the uni-cameral and bi-cameral systems respectively, or the considerations that would need to be taken into account preliminary to the establishment of either of these systems in Utopia, but a particular difficulty threatening the efficiency of parliamentary government in England at the present moment. It must not be supposed, for example, that the agitation respecting the House of Lords implies any revolt against the hereditary qualification in itself. To be the eldest son of a certain father may or may not be an adequate ground, philosophically considered, for the claim to an exceptional share in the functions of government, but it is certain that it is no intellectual unrest on this score that has caused the present anxiety. The trouble is simply that the machinery of legislation is out of gear, and that its parts must evidently be readjusted or amended to prevent a breakdown.

The gist of the matter is that the upper house has sinned by omission and commission: it has ceased to perform its constitutional duty and has assumed a function whose exercise is mischievous to the common weal. It is supposed to provide a check to hasty and ill-considered legislation, but, as a matter of fact, as long as a Conservative government is in office, it makes no attempt to render the services appropriate to a revis-

ing chamber. On the other hand, its dormant power of criticism is awakened into immediate activity on the accession of a Liberal ministry, and is then consistently exercised in the interests of the political party which, *ex hypothesi*, is at the time out of harmony with the will of the nation. In short, it is no exaggeration to say that the House of Lords has become as much a permanent organ of conservatism as the Carlton Club, and that it enables the Conservative leader in large measure to recoup himself for the losses suffered in an electoral defeat. The effect of this one-sided arrangement is shown not only directly in the rejection or amendment of progressive measures sent up by the Commons but indirectly in the watering-down of many such proposals before they are introduced into Parliament at all, owing to the natural desire of the responsible ministers to conciliate this powerful authority rather than provoke its antagonism. This, then, is the present situation. I propose to summarize in this article, with brief comment, the principal suggestions that have been made for its relief.

The following table exhibits the possible choices of policy :

I. Two-chamber system, with

- (1) Modification of powers of upper house, or
- (2) Reform of composition of upper house, or
- (3) Combination of (1) and (2).

II. One-chamber system.

If one were discussing the general subject of political constitutions it would be advisable to begin by settling the question between one and two chambers; but in this particular case of "practical politics" it is more convenient to consider first the possibilities of a reform of the existing two-chamber system, as involving the least change and as presenting, if for that reason alone, the alternative most likely to commend itself to the British public.

I

(1) The first proposal to be examined is that for modifying the authority of the House of Lords while leaving its composition as at present. The principal varieties of this scheme are :

- (a) Meeting of the Lords and Commons in one body.
- (b) Limitation of Lords' veto by referendum.
- (c) Limitation of Lords' veto by general election.
- (d) Limitation of Lords' veto by expiry of time.

(a) It was suggested by Lord Rosebery in 1888 that in cases of divergence of opinion between Lords and Commons there should be a reversion to the *Magnum Concilium*, *i. e.*, that the two houses should sit in one body, like the occasional "joint session" of an American state legislature for the election of federal senators. As parties stand in the United Kingdom at present such a scheme would be utterly futile. The Conservative peers combined with the Conservative members of the House of Commons would leave the Liberals of the two houses in a permanent and hopeless minority, even after such a general election as that of 1906.

(b) The introduction of the principle of the referendum has been warmly advocated by certain influential Liberal newspapers, notably by the *Manchester Guardian*. It is proposed that the rejection by the Lords of a bill that the House of Commons still presses in spite of such rejection shall be followed by the reference of this particular measure to a popular vote, and that a bill approved by such vote shall become law notwithstanding the opposition of the upper house. The Lords, it should be noted, invariably justify their rejection of government bills by the plea that they are really expressing the mind of the people more truly than the lower house, which may conceivably have been elected on other issues. A referendum, it is argued, would test the validity of this claim. It would enable the Lords to delay the passing of any bills which might have been insufficiently considered by the country at large, while their opposition would not be fatal to measures which the constituencies had definitely sanctioned.

The scheme is attractive and easily intelligible, and it is supported by evidence of the satisfactory operation of the referendum in other countries. Several objections have been offered to it, however, by writers of the same party stripe as its supporters. These critics discount the value of foreign experience

by pointing out that the countries whose example is quoted are of smaller population and alien political traditions. The referendum, they maintain, is contrary to the whole spirit of the British constitution, and its adoption would amount to a revolution of the existing system; it would destroy the representative character of the House of Commons and the responsibility of the king's ministers. At the same time, its application under the conditions mentioned would be illusory and disappointing. It would leave the democracy without direct influence on some of the most important national affairs, *e. g.*, peace and war; and in the long run it would not remedy the present trouble. It would practically yield to the Lords the power which Gladstone challenged, namely, the power of forcing an appeal to the country in disputes between the two houses; it would not be put into operation except during a Liberal ministry, and it would therefore expose the Liberal party to the unpopularity which would be associated with the expense and trouble of the frequent use of the election machinery. It is urged in reply that the prevailing practice of exacting "pledges" during his candidature has already made the M. P. no longer a representative but a delegate; that the doctrine of a "mandate" from the electors is to all intents and purposes now in force, though in a vague and dangerous form, often through the pressure of specific interests and cliques; and that the adoption of the referendum would regularize it and ensure that it expressed the will of the majority of the constituency. There would be involved no impairment of the present executive responsibility of the ministry, and the ministry and Parliament together would retain their control over administration and finance, and their power of initiative in legislation. Further, the difficulty anticipated from the apparently one-sided operation of the referendum could easily be met by allowing such an appeal not only on demand of the House of Lords, but on that of a certain substantial minority of the House of Commons or even of a certain proportion of the electorate by means of a petition. The question of the unpopularity of frequent pollings is not an easy one to determine. There undoubtedly exists in the community a large section which is not permanently attached to any party

and whose variations often turn the scale at an election. If this section, with its lack of political enthusiasm, would be irritated by frequent calls to exercise the franchise, the risk of arousing its prejudice would certainly be a drawback to the value of the referendum in the eyes of the party that would suffer thereby. But who would the victims of this prejudice be? Would the annoyance of this section vent itself on the government for proposing changes which could not be carried without this disturbance of the peace and interference with business, or on the Lords for interposing an obstacle only to be surmounted by this means? One cannot predict with certainty. It is reasonable to believe, however, that the mere possibility of a referendum would in many cases be effective in itself. If there existed the opportunity of a plebiscite as the *ultima ratio*, a Liberal government in the framing of its bills would recognize the importance of paying close attention to the feeling not only of its own party but of the country at large, and would beware of pushing to an extreme point any measure for which the opinion of the nation in general was not ripe. On the other hand, the Lords would be unlikely to persist in their opposition if they were not absolutely confident of popular support; they would remember that their failure to carry the country with them on a referendum would result in the passing without amendment of an obnoxious bill which might have become law in a less disagreeable form if an uncompromising stand had not been taken by its opponents. If this be so, the actual employment of this method would be extremely rare, and the anticipated interference with the normal working of the representative system would consequently be reduced to a minimum.

Whatever may be the force of these considerations, the immediate prospects of this particular scheme for securing "the consent of the governed" are not encouraging. The prime minister dismissed it briefly, almost contemptuously, in one of his recent speeches, and it is accordingly not favored by the Liberal party officially. It would not be surprising, however, if a clearer perception of the defects of other proposals should lead before long to the turning of general attention in this direction.



(c) A slighter departure from traditional methods would be the provision that a bill rejected by the House of Lords should nevertheless become law if re-affirmed by the House of Commons in a new Parliament. The intervening general election would thus answer the same purpose as the referendum in the scheme just described, but the test of popular approval would be much cruder, and there would be involved an undesirable delay. Under this system a bill passed by the Commons and rejected by the Lords in 1906 might possibly be "hung up" until 1912, and by that time other subjects might be so prominent in the public mind as to make the general election a very unsatisfactory expression of opinion on that particular issue. And in fact the adoption of such a limitation of the Lords' veto might make very little real difference to the actual situation. Although there is no technical provision to that effect, it is understood to be the constitutional practice that the House of Lords should not persist in its opposition to a measure which has been approved by the Commons in two successive Parliaments. In the case of the most important instances of a disagreement in recent years, the rejection by the Lords of the Home Rule bills of 1886 and 1893, the next following general election in each case resulted in the return of a House of Commons that did not approve of the measure in question, so there was no opportunity of illustrating or disproving this belief. But even if the Lords' veto were thus definitely limited by a general election, the hardship would remain that the measures of a Liberal government should be exposed to the ordeal of an election, while those of a Conservative government were exempted.

(d) Another suggestion is that a time-limit should be imposed on the veto of the upper house. The present proposals of Sir Henry Campbell-Bannerman are of this nature. The wording of the resolution which, on his motion, the House of Commons accepted on June 26 last by 432 votes to 147 is as follows:

That in order to give effect to the will of the people as expressed by their elected representatives, it is necessary that the power of the other

house to alter or reject bills passed by this house should be so restricted by law as to secure that within the limits of a single Parliament the final decision of the Commons shall prevail.

The entire scheme, as outlined by the prime minister, provides for the holding of three conferences between the two houses at various stages of the controversy before the ultimate decision is taken by the Commons, and also for the shortening of the duration of Parliaments from seven to five years in order to prevent arbitrary action by an effete government. The critics of this scheme contend that it cannot be correctly regarded as a readjustment of the relations between the two houses. It would give the upper house, it is true, the opportunity of pronouncing an opinion on bills passed by the Commons, but would practically deprive it of legislative authority; and it is argued that it would scarcely be consistent with self-respect to consent to undertake functions that would be so restricted as those of the House of Lords under such a régime. But while the authority of the upper house under these conditions might appear to be the mere shadow of its present-day privileges, it is not certain that membership of the consultative body that would remain would be without attraction for men of distinction. An advisory council of this type would not necessarily hold a humiliating or even undignified position through the fact that the ultimate decision lay elsewhere, any more than the House of Lords, as matters now stand, feels itself degraded by the limitation of its functions in respect to financial affairs. There is, however, evidently much reason for the view that any limitation of the Lords' veto which would result in the prevalence of the will of the Commons without further reference to the electorate would be so close an approximation to the abolition of the upper house that it should be considered in the light of the arguments for and against a single-chamber system.

The obvious comment upon all these proposals to rearrange the mutual relations of the two houses is that, while they would save the work of legislation under a Liberal government from being thwarted as at present by a permanently entrenched Conservative majority in the upper house, they would contribute

nothing toward improving the quality of that house and consequently increasing its efficiency as a revising chamber.

(2) We now come to the various schemes which propose no alteration in the existing relations between the two houses, but aim at making the House of Lords a more efficient legislative body by means of reforms in its composition. These may conveniently be tabulated as follows, according to the proportion of weight they give to the hereditary principle:

- (a) Limitation of writ of summons.
- (b) Increased proportion of non-hereditary members.
- (c) Abolition of hereditary privilege.

(a) At present, the death of an English peer does not, of itself, make his eldest son a member of the House of Lords. A necessary preliminary to the taking of a seat is the issue of a "writ of summons" by the king. If the eldest son is a minor, his writ is not issued until he has attained his majority. In certain instances the issue of this summons may be delayed by desire of the new peer himself, who immediately begins to enjoy the title and rank he has inherited, but defers for a time the entry upon his legislative inheritance. "There are cases in recent times," says Sir William Anson, "of peers by descent holding offices which are incompatible with a seat in either house. The peer in such case, on succeeding to the peerage, does not apply for his writ of summons, and so avoids being disqualified for the office which he holds." A peer thus summoned receives a new writ at the opening of every successive Parliament as a condition of admission to a seat in it.

In the course of time this particular phase of the royal prerogative has become a mere formality, but the technical necessity of it has suggested a method of retaining the hereditary principle as the basis of membership while restricting its operation to a limited number of persons. In 1888 the late Marquis of Salisbury introduced into the House of Lords a bill, which passed its second reading but went no further, "to authorize the discontinuance in particular cases of the issue of writs of summons to the House of Lords." Its object will be sufficiently indicated by mention of the fact that it was popu-

larly known as "the Black Sheep Bill." Lord Salisbury's hint has been taken and improved upon by Mr. J. G. Swift MacNeill, M. P., formerly professor of constitutional law at the King's Inns, Dublin, who boldly proposes that the Crown, on the advice of the Cabinet, should exercise a deliberate process of selection in the issue of writs of summons. Mr. MacNeill quotes high authority in support of his argument that the discretionary power of the king in this respect is a royal prerogative which could not become obsolete through desuetude, and that it might be revived without any violence to the constitution. This scheme combines perhaps to a greater degree than any other ingenuity of conception and simplicity of operation. It might clearly be made to serve a double purpose. Judicious selection might greatly improve the calibre of the average membership of the upper house by opening its doors to such peers only as could show the qualification of personal ability or experience in public affairs; at the same time this purge might be so exercised by the ministry of the day as to place its own political supporters in a majority and thus ensure the passing of its own measures without friction or delay. But in spite of its tempting advantages Mr. MacNeill's plan is open to serious objections. In the first place, the royal discretion in the issue of the writ of summons does not apply to the 44 Scottish and Irish representative peers, or to the 26 bishops, who are legally entitled to their seats irrespective of the king's call. Again, the contention that the royal prerogative is merely dormant has to meet the precedent of the resistance successfully made to Charles the First's attempt to exclude the Earl of Bristol from Parliament. More important still is the consideration that the revival of such powers would be a two-edged weapon. A Conservative ministry might follow this example with disastrous effect on the fortunes of the Liberal party. It would be equally possible, for instance, to revolutionize the whole composition of the House of Commons by reviving the ancient royal prerogative of summoning members to that house from whatever localities the Crown might prefer—a sort of gerrymander which might send the country back to the era of rotten boroughs. In fact, the whole idea of dealing a blow at the Lords by perma-

nently increasing the normal authority of the king is so contrary to the general trend of political evolution in modern England, or for that matter anywhere else in the twentieth century, that the sovereign himself in all probability would judge it to be highly imprudent to consent to it.

(b) Schemes for the retention of the hereditary principle in combination with a largely-increased proportion of non-hereditary members have been made public in bewildering variety. To prevent the size of the house from becoming altogether unwieldy it would of course be necessary to accompany an extension in the latter direction with a reduction in the number of hereditary members. An important element in several of these schemes is, therefore, the proposed application to the English peerage of the system now in force with respect to Scottish and Irish peers. At present the Scottish peers send to the House of Lords 16 of their own number as their representatives, and the Irish peers similarly send 28; the representative peers in the former case sitting during the duration of the Parliament for which they are elected, and in the latter case for life. The adoption of some such plan for the selection of English peers as representatives of the whole body would be not unwelcome to many present members of the upper house, but it may be doubted whether the net result of such a change would in itself give much comfort to the friends of progressive legislation. There are at present so many habitual non-attendants that a considerable reduction of the number entitled to attend might leave the body of "working" hereditary peers very much the same as at present, with the exception that the process of election by the majority would probably exclude the few Liberal peers who are found in the House today.

The proposal to increase the proportion of non-hereditary members calls attention to the fact that, leaving the bishops out of count, there are now in the House of Lords only four life peers. It has sometimes been said that if Sir James Parke had not happened to be suffering from a cold on a certain day in 1856 there might by this time have been a large number of them. In that year, Sir James, who had held distinguished office as a judge, was created a life peer under the title of Lord

Wensleydale, it being generally supposed that the creation of life peers was a constitutional prerogative of the monarch, though it had long been disused. His indisposition delayed him in taking his seat. Meanwhile the alarm was sounded and the House of Lords refused to receive him, alleging, in accordance with a report of a special committee of privileges, that neither his letters patent nor his writ of summons entitled him to a place in the house. In the interests of peace he was made a peer of the normal type, and the difficulty was settled for the time. Twenty years later the passing of a statute creating four life peers for judicial purposes practically admitted the contention of the Lords, implying as it did that the royal prerogative had no sufficient validity in that respect. The action taken by the Lords themselves has therefore had this curious result, probably little appreciated by them at the time, that if the Crown today wished to override the opinion of the present upper house by means of a large number of new creations the new peers would have to be hereditary peers, not life peers. More than once since 1856 bills have been introduced into the House of Lords itself—once, indeed, by the late Marquis of Salisbury—for empowering the Crown to create life peers, but though these bills received considerable support, they did not in any instance reach the stage of becoming law.

If, then, we propose the supplementing of a reduced number of hereditary members by a considerable number of non-hereditary, what form shall this addition take? It is here that the opportunity of an almost infinite variety of schemes—one might be excused for saying, of “freak” schemes—presents itself. We have first to decide whether the new members shall hold their seats for life or for a term of years. The next question is the mode of appointment, whether nomination by the Crown, direct or indirect election, or the possession of some *ex officio* status. If they are to be elected, is the electorate to be the House of Commons, or the county councils, or a special electoral college, or the body of voters which at present elects to the Commons, limited possibly by a higher property qualification? If an *ex officio* basis is adopted, what are to be the offices whose past or present tenure shall entitle to a seat? Each of these

topics offers material for endless discussion, but the main object of most of the projects advanced is the same. It is to secure that a large if not preponderant section of the upper house shall consist of men who have already rendered conspicuous service to the community, and that they shall find their way into that house by some method that will keep them free from such rigidity of party ties as binds members of the House of Commons. It has been proposed, for example, that places should be given to privy councillors, to men who have held the leading posts in the permanent civil service, to ex-governors or ex-premiers of the colonies, to representatives of the universities and of the learned societies and professions, to the heads of the leading religious denominations, to retired judges, to ex-members of the House of Commons of a certain number of years' standing, to lord mayors and lord provosts, *etc.*, *etc.* In fact there is scarcely any office implying personal distinction which some constitution-maker or other has not suggested as a qualification for membership of the upper house.

In most of these schemes it is understood—though it is not necessarily part of them—that there would be in future no fresh creations of hereditary peerages. In the course of years the number of existing peerages would consequently become smaller and smaller. Meanwhile the hereditary peers would retain a considerable amount of power through enjoying the opportunity of electing from their own order the occupants of a certain number of seats in the reconstituted house.

(c) A more radical type of proposal would involve the loss of this privilege. The peers would then have no claim to a definite proportion of seats, but would stand on precisely the same level as other candidates, and would take their chance of nomination or election in company with the privy councillors, *etc.* A scheme of this kind has been put forward by Dr. A. R. Wallace. He would constitute the entire house by an election in which each of the 121 counties in the United Kingdom would elect two members. The electorate would consist of parish, district, borough and county councillors, and the candidates eligible would be required to be over forty-five years of age and to possess some qualification of personal or official distinction.

Members would hold their seats for fifteen years, with one-third of the number retiring every five years.

The general argument for the various schemes summarized in (2) is that a reconstitution of the house on some such basis would raise the quality of its membership and promote its efficiency as a revising chamber. It is urged, on the other hand, that a house reconstituted by any scheme of this kind would still be anti-popular, and in actual working would show itself no less opposed to progressive movements than at present. All such "reforms," it has been said, would leave the upper house "a house of rich men, a house of persons interested in the present land system, a house of churchmen, a house of capitalists."

(3) British politicians naturally tend to seek a solution either in the proposals marked (1) or in those marked (2) according to the emphasis they lay upon the different needs of the present situation. In the minds of many there is an inclination to resent any interference with the will of the people as expressed in the election of the House of Commons. Those who take this view are, of course, most anxious to make the veto of the upper house as little operative as possible, and do not concern themselves greatly as to the composition of that body. Others are mainly desirous of converting the House of Lords into a satisfactory instrument for the fuller consideration of measures that have passed the House of Commons, and are consequently disposed to let the relations of the two houses remain as they are, provided that the character of the upper house be modified in the direction of improved capacity of statesmanship. But there are not a few who feel that the difficulty is not simply in the present relation of the two houses or in the composition of the upper house, but in the two conditions together, and are therefore convinced that no reform will be adequate unless it includes a modification in both directions. To them, therefore, the most commendable proposal would be a combination of some scheme in the first group with some scheme in the second. It is unnecessary to discuss or even to formulate the combinations that would be possible in such an arrangement. Suffice it to say that the resulting increase in the number of plans to be



considered makes the concentration of public approval on any one scheme especially difficult to secure.

## II

No useful purpose would be served by recapitulating here the arguments for and against a single-chamber system, but it may be of service to note certain objections which, in England at the present time, weigh strongly against the obvious simplicity of such a system as a democratic method of government.

In the first place, the traditions of British political development, as already suggested, are against so revolutionary a change, which could therefore only be brought about at the cost of a violent political upheaval. Further, recent experience has produced, even among strong Liberals, a keener appreciation of the risks that might be run through the absence of any check upon the House of Commons. The idea that the Commons must necessarily be in sympathy with popular sentiment has suffered a rude shock. During the last years of the Balfour ministry that house was notoriously out of touch with the nation, but for that very reason it was found to be a more serviceable instrument in supporting and executing the policy of the cabinet. An M. P. who has urgent reason to fear for the safety of his seat may naturally be counted on not to pursue any course which would be likely to hasten an appeal to the country. As it is, the authority of the cabinet, whether Conservative or Liberal, has been notably strengthened of late, and the prospect of the establishment of a cabinet autocracy by means of a subservient House of Commons is sufficiently serious to cause hesitation, unless the removal of the check of the House of Lords is to be accompanied by the shortening of the maximum interval between general elections. Even then the possibilities of mischief in a house elected in some hour of panic or passion would be incalculable, in view of the fact that there exists in England no written constitution limiting the range of subjects with which Parliament might deal. Moreover, in the event of House of Commons "despotism" or "absolutism," the most obvious recourse of the other side would be an appeal to the authority of the Crown. An enlargement of the royal

prerogative, as the result of a democratic change like the abolition of the House of Lords, would be as dramatic a turnabout as any known to history.

Accordingly the entire elimination of the upper house from the British political system, although advocated by many occupants of the Radical and Labor benches in the House of Commons, is not likely to be seriously proposed by any responsible statesman as long as there is the least chance of the adoption of a more moderate scheme. It is conceivable that the failure of less drastic proposals might in the long run so try the patience of the country as to make it willing to consider even so violent a break with the past, but just now the "practical politician" may be excused for turning his attention in other directions.

It is worth while to discuss, in conclusion, by what means such of the above-mentioned schemes as require a parliamentary enactment might be brought about. How is the government or the country to overcome the resistance of the present House of Lords to any considerable diminution of its legislative privileges? It has been suggested that the anti-veto clause, or whatever the reforming proposal might be, should be tacked on to the appropriation bill, which the Lords would not be competent to amend and would not venture to reject. This scheme has been supported by a mistaken interpretation of Gladstone's course in obtaining the repeal of the paper duties in 1860, a course which offers no real precedent in this instance. An anti-veto clause would be in no sense financial, and would be thrown out by the Lords without hesitation and without any reasonable fear of public opinion being offended by its rejection. No attempt has hitherto been made—and it is safe to predict that none will be made—to assail the position taken by the House of Lords in the standing order passed by it in 1702, namely: "That the annexing any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of said bills of aid and supply, is unparliamentary, and tends to the destruction of the constitution of the government."

Clearly, the only feasible method of procedure is to effect by

constitutional means such an alteration in the personnel of the present house as will secure a plurality of votes in favor of reform. This can be done either by a limitation of the issue of writs of summons or the creation of a large number of Liberal peers. The former of these courses, for reasons already given, is not likely to be adopted. The other is not free from difficulties, but is much more practicable. Two precedents are cited in this connection. In 1712 the confirmation of the Peace of Utrecht was brought about by the creation of a sufficient number of Tory peers to defeat the Whig majority. In 1832 the Reform Bill was carried by the menace of additions to the peerage for that purpose. It is worth noting that the first of these incidents was followed a few years later by the introduction in the Lords of a bill to put a fixed numerical limit on the peerage, but its rejection by the Commons preserved the prerogative of the Crown in this respect. In the case of the Reform Bill, when that measure had been approved by the nation in a general election taken on that issue after its rejection by the Lords, Earl Grey obtained from the king the following document: "The king grants permission to Earl Grey and to his chancellor, Lord Brougham, to create such a number of peers as will be sufficient to ensure the passing of the Reform Bill, first calling peers' eldest sons." The threat of such an unwelcome invasion proved all that was needed to secure the cessation of the Lords' resistance. A method of this kind involves no revival of a dormant or disused prerogative. Commoners are still being raised to the peerage every year, and their party affiliations are considered in the selection made. The only difference would be in the exceptional number of persons receiving this honor. If the precedents of 1712 and 1832 were followed to-day, the peers would have in prospect a much larger addition to their body than was ever involved before. In 1712 the creation of twelve new peers sufficed to turn the scale, and in 1832 the final list submitted by the prime minister to the king contained only forty names, but the size of the house, and especially of its Conservative majority, has since increased to such an extent that four hundred is estimated to be the least number of additions that it would be necessary to contemplate.

Possibly if the prime minister had the king's permission in his pocket the menace of such a change might again be enough. A peerage, we must remember, is not only a political but a social privilege, and the fear of such a "cheapening" of its value in the latter respect as would result from the swamping of the house by outsiders would be a distinct incentive to acceptance of the counsel to "agree with thine adversary quickly, whiles thou art in the way with him." From this point of view the limitation of the veto or even the extension of membership of the upper house to a large number of persons holding seats for life or for a term of years would be less to be dreaded; such reforms would involve no disturbance of the "repose which stamps the caste of Vere de Vere." But it must be admitted that a coup d'état of this kind, while technically only a numerical extension of a process exhibited on every king's birthday celebration, could only be justified as a last resort, and we may take it for granted that the support of the country as shown at a general election taken on this issue would be an essential condition. Nothing but the risk of losing his crown induced William IV, after vehement and protracted objection, to put into the hands of Earl Grey the weapon which could alone restore peace to the country. And it cannot be supposed that the reigning sovereign, free though he is known to be from the bigotry and obstinacy of certain of his predecessors, would consent to so grave a step unless the necessities of government and the will of the nation made it inevitable.

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## FISHER'S CAPITAL AND INCOME<sup>1</sup>

**T**HE *Nature of Capital and Income* is of that class of books that have kept the gild of theoretical economists content to do nothing toward "the increase and diffusion of knowledge" during the past quarter of a century. Of this class Mr. Fisher's work is of the best—thoughtful, painstaking, sagacious, exhaustive, lucid, and tenaciously logical. What it lacks is the breath of life; and this lack it shares with the many theoretical productions of the Austrian diversion as well as of the economists of more strictly classical antecedents. Not that Mr. Fisher's work falls short of its promise, and assuredly it does not fall short of the mark set by those many able men who have preceded him in this field. No reader of Mr. Fisher can justly feel disappointed in his performance of the difficult task which he sets himself. The work performs what it promises and does it in compliance with all the rules of the craft. But it does not set out substantially to extend the theory or to contribute to the sum of knowledge, either by bringing hitherto refractory phenomena into the organized structure of the science, or by affording farther or more comprehensive insight into the already familiar processes of modern economic life. Consistently with its aim, it is a work of taxonomy, of definition and classification; and it is carried through wholly within the limits imposed by this its taxonomic aim. There are many shrewd observations on the phenomena of current business, and much evidence of an extensive and intimate acquaintance with such facts of modern culture as are still awaiting scientific treatment at the hands of the economists (*e. g.*, in chapters v and vi, "Capital Accounts" and "Capital Summation," as also in chapters viii, ix, xiii, xiv, "Income Accounts," "Income Summation," "Value of Capital," "Earnings and Income," "The Risk Element"). But the facts of observation so drawn into the discussion are chiefly drawn in to illustrate or fortify an argument, somewhat polemical, not as material calling for theoretical explanation. As affects the development of the theory, these observations and this information run along on the side and are not allowed to disturb the argument in its secure march toward its taxonomic goal.

There is no intention here to decry taxonomy, of course. Definition and classification are as much needed in economics as they are in

<sup>1</sup> *The Nature of Capital and Income*. By Irving Fisher. New York, The Macmillan Company, 1906.—xxi, 427 pp.

those other sciences which have already left the exclusively taxonomic standpoint behind. The point of criticism, on this head, is that this class of economic theory differs from the modern sciences in being substantially nothing but definition and classification. Taxonomy for taxonomy's sake, definition and classification for the sake of definition and classification, meets no need of modern science. Work of this class has no value and no claims to consideration except so far as it is of use to the science in its endeavor to know and explain the processes of life. This test of usefulness applies even more broadly in economics and similar sciences of human conduct than in the natural sciences, commonly so-called. It is on this head, as regards the serviceability of his taxonomic results, that Mr. Fisher's work falls short. A modern science has to do with the facts as they come to hand, not with putative phenomena warily led out from a primordial metaphysical postulate, such as the "hedonic principle." To meet the needs of science, therefore, such modern concepts as "capital" and "income" must be defined by observation rather than by ratiocination. Observation will not yield such a hard-and-fast definition of the term as is sought by Mr. Fisher and his co-disputants, a definition which shall mark off a pecuniary concept by physical distinctions, which shall be good for all times and places and all economic situations, ancient and modern, whether there is investment of capital or not.

"Capital" is a concept much employed by modern men of affairs. If it were not for the use of the concept in economic affairs—its growing use for a century past—the science would not be concerned about the meaning of the term today. It is this use of the concept in the conduct of affairs that obtrudes it upon the attention of economists; and it is, primarily at least, for a better knowledge of these pecuniary affairs, in which the concept of capital plays so large a part, that a better knowledge of the concept itself is sought. As it plays its part in these affairs of business, the concept of capital is, substantially, a habit of thought of the men engaged in business, more or less closely defined in practice by the consensus of usage in the business community. A serviceable definition of it, therefore, for the use of modern science, can be got only by observation of the current habits of thought of business men. This painfully longwinded declaration of what must appear to be a patent truism so soon as it is put in words may seem a gratuitous insistence on a stale commonplace. But it is an even more painfully tedious fact that the current polemics about "the capital concept" goes on year after year without recognition of this patent truism.

What may help to cover, rather than to excuse, the failure of many economists to resort to observation for a knowledge of what the term "capital" means is the fact, adverted to by the way in various writers, that business usage of the term is not uniform and stable; it does not remain the same from generation to generation; and it cannot, at least as regards present usage, be identified and defined by physical marks. The specific marks of the concept—the characteristics of the category—in the common usage are not physical marks, and the categories with which it is, in usage, related and contrasted are not categories that admit of definition in material terms; because it is, in usage, a pecuniary concept and stands in pecuniary relations and contrasts with other categories. It is a pecuniary term, primarily a term of investment, and as such, as a habit of thought of the men who have to do with pecuniary affairs, it necessarily changes in response to the changes going forward in the pecuniary situation and in the methods of conducting pecuniary affairs. "Capital," in the usage of current business, undoubtedly has not precisely the same meaning as it had in the corresponding usage of half a century ago; and it is safe to say that it will not retain its present meaning, unimpaired and unimproved, in the usage of ten years hence; nor does it cover just the same details in one connection as in another. Yet business men know what the term means to them. With all its shifting ambiguities, they know it securely enough for their use. The concept has sufficient stability and precision to serve their need; and, if the economist is to deal with the phenomena of modern life, in which this concept serves a use of first-rate importance, he must take the term and the concept as he finds them. It is idle fatigue to endeavor to normalize them into a formula which may suit his prepossessions but which is not true to life. The mountain will not come to Mahomet.

It is not for its idiosyncrasies that Mr. Fisher's analysis and formulation of the "capital concept" merits particular attention, but because it is the most elaborate outcome of classificatory economics to this date. Except for certain minor features—important, no doubt, within the school—his definition of capital is by no means a wide departure. It is only worked out more consistently, painstakingly and circumspectly than has hitherto been done. Some of these special features peculiar to Mr. Fisher's position have been carefully and very ably discussed by Mr. Fetter.<sup>1</sup> The merits of the discussion of these

<sup>1</sup> *Journal of Political Economy*, March, 1907, "The Nature of Capital and Income." See also Mr. Fisher's reply in the same journal, July, 1907,—*"Professor Fetter on Capital and Income."*

matters between the critic and his author, with the incidental balancing of accounts, need not detain the present argument. Nor need particular attention here be given to the points in dispute so far as regards their consistency with the general body of theory upheld by Mr. Fisher and other economists who cultivate the classificatory science. But there are some details of the "nature of capital" as set forth by Mr. Fisher—and in large part assented to by Mr. Fetter and others of the like way of thinking—that require particular attention as regards their adequacy for other purposes than that of a science of classification.

(1) In the general definition of "capital" (*e. g.*, pp. 51-53, 66-68, 324), the concept is made to comprise all wealth (in its relation to future income); and "wealth" has, in the same as well as in earlier pages, been defined "to signify material objects owned by human beings," which, in turn, includes all persons, as well as other material objects. As an aggregate, therefore, as an outcome of a comprehensive "capital summation," "capital" comprises the material universe in so far as the material universe may be turned to use by man (see p. 328). This general definition includes too much and too little. A serviceable definition of capital, one that shall answer to the concept as it is found in practice in the habits of thought of business men, will not include persons. Hitherto, there is no question, the distinction between the capitalist and his capital is not disregarded by practical men, except possibly by way of an occasional affectation of speech; and it is highly improbable that, at any point in the calculable future, business men can come habitually to confuse these two disparate concepts. Modern business proceeds on the distinction. It is only in pulpit oratory that a man's person is legitimately spoken of as an item of his assets. And as for a business man's capitalizing other persons, the law does not allow it, even in the form of peonage. There are also other material objects "under the dominion of man" which are not currently thought of as items of capital.

There are apparently two main perplexities of the mechanical classification which constrain Mr. Fisher to include the person of the owner among the owner's assets as capital: (a) Contrary to business usage, he is required by his premises to exclude immaterial wealth because it is not amenable to classification by mechanical tests, and it is therefore necessary to find some roundabout line of approach to such elements as good will, and the like;<sup>1</sup> and (b) persons are conceived to yield

<sup>1</sup> See chapter ii, section 6, pp. 24-31; also section 10.



income (in the sense of Mr. Fisher's definition of "income," presently to be noted), and since capital is held to be anything which yields "income"—indeed, "capital" is such by virtue of its yielding "income"—persons are included under "capital" by force of logic, though contrary to fact.

(2) As has already been indicated in passing, "immaterial wealth," or "intangible assets," is excluded from "capital" in Mr. Fisher's analysis. Indeed, the existence of intangible assets is denied. The phrase is held to be an untoward misnomer for certain classes of property rights in material objects which are not wholly owned by the individual to whom these property rights inure. An important part of these incomplete property rights are rights of quasi-ownership in other persons, or claims to services performed by such persons. This denial of immaterial wealth Mr. Fisher intends as a salutary correction of current business usage (see p. 39); and he takes pains to show how, by a cumbersome ratiocination (see chapter ii, sections 6-10), the term "intangible assets" may be avoided without landing the theory in the instant confusion which a simple denial of the concept would bring about. As a correction of current usage the attempted exclusion of intangible assets from "capital" does not seem a wise innovation. It cripples the definition for the purposes which alone would make a definition worth while. The concept of intangible assets is present in current usage on no such doubtful or precarious tenure as could be cancelled by a bit of good advice. Its vogue is growing and its use is becoming more secure and more definite. The habit and the necessity of taking account, under one name or another, of the various immaterial items of wealth classed as intangible assets counts for more and more in the conduct of affairs; and any theory that aims to deal with the actualities of modern business will have to make its peace with the term or terms by which these elements of capital are called, however wrong-headed a habit it may be conceived to be. The men of affairs find the concept serviceable, or rather they find it forced upon them, and the theorist of affairs cannot afford to dispense with a concept which is so large a constituent in the substance of affairs.

But the fault of the definition at this point is more serious than the mere exclusion of a serviceable general term which might be avoided by a circumlocution. "Intangible assets" is not simply a convenient general term covering certain more or less fluctuating property rights in certain material items of wealth. The elements of capital so designated are chiefly of the nature of differential advantages of a given business man, or a given concern, as against another. But they are

capitalized in the same way as tangible items of wealth are capitalised, and in large part they are covered by negotiable securities, indistinguishable, and in most cases inseparable from, securities representing tangible assets. So, being blended in the process of capitalization with the tangible assets, the securities based on the intangible assets create claims of ownership co-ordinate with those based on the material items and enter, in practice, into "capital summation" on the same footing as other items of wealth. Hence they become a basis of credit extensions, serving to increase the aggregate claims of creditors beyond what the hypothecable material wealth of the debtors would satisfy. Hence, in a period of general liquidation, when the differential advantages of the various concerns greatly contract, the legitimate claims of creditors come greatly to exceed the paying capacity of debtors, and the collapse of the credit system follows. The failure of classical theory to give an intelligent account of credit and crises is in great part due to the habitual refusal of economists to recognize intangible assets, and Mr. Fisher's argument is, in effect, an accentuation of this ancient infirmity of the classical theory.

It may be added that differential competitive advantages can not be added together to make an aggregate, even apart from the tangible items of "capital wealth," since the advantage of one concern is the disadvantage of another. These assets come forth, grow great, and decay, according to the advance or decline of the strategic advantage achieved by given individuals or business concerns. Their "summation" is a spurious summation, in the main, since they represent competitive advantages, in the main; and their capitalization adds a spurious volume to the aggregate property rights of the community. So that it follows from the capitalization of these items of differential wealth, particularly when they are covered by vendible securities, that the aggregate property rights of the community come to exceed the aggregate wealth of the community.<sup>1</sup> This is, of course, a sufficiently grave trait of the modern business situation, but the effect of Mr. Fisher's contention is to deny its existence by the turn of a phrase and to put economic theory back where it stood before the modern situation had arisen. There are other turns in modern business affairs traceable to the vogue of this concept of "intangible assets," but this illustration of its grave consequences should be a sufficient caution to any taxonomist who endeavors to simplify his scheme of definition by denying inconvenient facts.

<sup>1</sup> Contrary to Mr. Fisher's elaborate doctrine of property rights as defined by mechanical limits.—Chapter ii.

The point is perhaps sufficiently plain from what has been said, but it will bear specific mention that the apparent success of Mr. Fisher's analysis of intangible assets (pp. 32-40, 96-97) is due to his not going beyond the first move. So soon as the actualities of business complication and the cumulative effects of capitalization are taken into account, it is evident that, with the best intentions, Mr. Fisher's explanation of intangible assets as a roundabout claim to certain concrete (tangible) items of wealth will not serve. The treatment of credit suffers from a like unwillingness to accept the facts of observation or to look farther than the first move in an analysis. This shortsightedness of the taxonomic economist is a logical consequence of the hedonistic postulates of the school, not a personal peculiarity of the present or any other author.

As to Mr. Fisher's definition and handling of the second concept with which the book is occupied—*income*—much the same is true as of the discussion of *capital*. *Income* is re-defined with a close adherence to the logic of that hedonistic-taxonomic system of theory for which he speaks. The concept of *income* here offered is more tenaciously consistent with the logical run of current classificatory economics, perhaps, than any that has been offered before. It is the perfect flower of economic taxonomy, and it shows, as no previous exposition of the kind has shown, the inherent futility of this class of work for other than purely taxonomic ends.

The concept of *income*, like that of *capital*, is well at home in current business usage; and, professedly, it is the concept of *income* as it plays its part in the affairs of business that occupies the author's attention. But here, again, as before, the definition—"the nature of *income*"—is not worked out from observation of current facts, with an endeavor to make the demarcation of the concept square with the habitual apprehension of the phenomena of *income* in the business community. Taken at its current import, as the concept is taken in the run of business and in the economic affair of any community of men dominated by the animus of business enterprise, there can be no question but that "*income*" is a pecuniary concept; it is money *income*, or is as an element which is convertible into terms of money *income* and amenable to the pecuniary scheme of accountancy. As a business proposition, nothing that can not be rated in terms of money *income* is to be accounted *income* at all; which is the same as saying that no definition which goes beyond or behind the pecuniary concept can be a serviceable definition of *income* for modern use. There may be something beyond or behind this pecuniary concept which it may be

desirable to reach and discuss for some other purpose more or less germane to the affairs of modern life ; but such a something, whatever its nature, can not be called " income " in the same sense in which that term is employed in modern business usage. When the term is applied to such an extra-pecuniary or praeter-pecuniary concept, such an extension of the term is a rhetorical license ; it is a figure of speech which is bound to work confusion in any argument or analysis that deals with the two inconvertible concepts. " Income," in modern usage, is a business concept ; " psychic income " is not ; and, as Mr. Fisher is in an eminently good position to admit, the two are incommensurable, or rather disparate, magnitudes. The one can not be reduced to terms of the other. This state of the case may be deprecated, but it can not be denied ; and it is no service to the science of modern economic life to confuse this distinction by running the two in under one technical term.

Chapter xiv ( " Earnings and Income " ), and more particularly the latter sections of the chapter, illustrate how far from facts one may be led by a consistent adherence to Mr. Fisher's hedonistic working-out of the concept of income. " To regard ' savings ' as income is essentially to regard an increase of capital as income " ( pp. 254-255 ). Now, apart from the hedonistic prepossession, there is, of course, no reason for not regarding such an increase of capital as income. The two ideas—" income " and " increase of capital "—are by no means mutually exclusive in the current usage ; and ordinarily, so long as the terms are taken in their current ( pecuniary ) meaning, such an increase of capital would unhesitatingly be rated as income to the owner. The need of making " income " and " increase of capital " mutually exclusive categories is a need incident to a mechanically drawn scheme of classification, and it disappears so soon as classification for classification's sake is given up. It is traceable to a postulated ( hedonistic ) principle presumed to rule men and things, not to observation of the run of facts in modern life. Indeed, even in Mr. Fisher's analysis the distinction goes into abeyance for a while where, in the doctrine of " capital value " ( chapter xiii, especially section 11, and chapter xviii, section 2 ) the facts will absolutely not tolerate its being kept up. The hedonistic taxonomy breaks down at this juncture. And the fact is significant that this point of doctrine—*viz.*, that capital considered as a magnitude of value " is the discounted value of the expected income " —is the latest and most highly prized advanced in economic theory to whose initiation Mr. Fisher's writings give him a defensible claim.<sup>1</sup>

<sup>1</sup> Cf. *Journal of Political Economy*, papers cited above.

The day when Bentham's conception of economic life was serviceable for the purposes of contemporary science lies about one hundred years back, and Mr. Fisher's reduction of "income" to "pyschic income" is late by that much. The absolute merits of the hedonistic conception of economic theory need not be argued here. It was a far-reaching conception, and its length of life has made it a grand conception. But great as may be the due of courtesy to that conception for the long season of placid content which economic theory has spent beneath its spreading chestnut tree, yet the fact is not to be overlooked that its scheme of accountancy is not that of the modern business community. The logic of economic life in a modern community runs in terms of pecuniary, not of hedonistic magnitudes.

Mr. Fisher's farthest advance, his definition and handling of "capital value," involves the breaking down of the classical hedonistic taxonomy; and the breakdown is typical of the best work done by the school. This move of the classifiers is, of course, nothing sudden; nor is it an accident. It means, in substance, only that the modern facts have increasingly shown themselves incompatible with the mechanical scheme of classical definitions, and that this discrepancy between the facts and the received categories has finally forced a breaking away from the old categories. The whole voluminous discussion of the capital concept, for the past twenty years or so, has, indeed, turned about this discrepancy between business practice and the hedonistic classification by means of which economists have tried to deal with this business practice. All expedients of classification, definition, refinement and interpretation of technical phrases have been tried, except the surrender of the main position—that economic conduct must be read in terms of the hedonistic calculus.<sup>1</sup>

Under the stress of this controversy of interpretation, the hedonistic concept of capital as a congeries of "productive goods" has gradually and reluctantly, but hitherto not wholly, been replaced by something more serviceable. But this gain in serviceability has been won—in so far as the achievement may be spoken of in the past tense—at some cost to the hedonistic point of view. Such serviceability as the newly achieved interpretation of the capital concept has, it has because, and only so far as, it substitutes a pecuniary for a hedonistic construction of the phenomena of capitalization. Among those who speak for the new (pecuniary) construction is Mr. Fisher, although he is not by any

<sup>1</sup>The argument will return to the hedonistic calculus presently to show how the logic of this calculus has forced the theory at certain points.

means the freest of those who are breaking away. His position is, no doubt, deprecated by many taxonomic economists as being an irreverently, brutally iconoclastic innovation, quite indefensible on taxonomic grounds; but, after all, as Mr. Fetter has shown in more courteous words,<sup>1</sup> it is an equivocal, or perhaps rather an irresolute position at the best.

"Capital," in the classical definition, was, as required by the hedonistic point of view, a congeries of what has latterly been named "productive goods." From such a concept of capital, which is hopelessly and increasingly out of touch with business usage, the theorists have been straining away; and Mr. Fisher has borne a large part in the speculations that are leading up to the emancipation of theorists from the chore work required by that white elephant. But he is not content formally to give up the heirloom; although, as Mr. Fetter indicates, he now makes little use of it except for parade. He offers two correlate definitions of capital: "capital wealth," *i. e.*, productive goods, and "capital value," *i. e.*, pecuniary capital.<sup>2</sup> The former of these, the authentic hedonistic concept, shortly drops out of the discussion, although it does not drop out so tracelessly as Mr. Fetter's criticism may suggest. The argument then proceeds, almost throughout, on the concept of "capital value."<sup>3</sup> But there is a recurrent, and, one is tempted to say, dutiful, reminder that this "capital value," or capitalization of values, is to be taken as the value of a congeries of tangible objects (productive goods); whereby a degree of taxonomic consistency with the authentic past and with the hedonistic postulate is formally maintained, and whereby also, dutifully and authentically, intangible assets are excluded from the capital concept, as already indicated above. Capital value is "simply the present worth of the future income from the specified capital"<sup>4</sup> (p. 202); but this capital value, it is held, is always the value of tangible items (including persons?).

It is the uncanny office of the critic to deal impersonally with his author's work as an historical phenomenon. Under cover of this

<sup>1</sup> *Journal of Political Economy*, as above, pp. 143-144.

<sup>2</sup> Pp. 66-67, 327, and elsewhere.

<sup>3</sup> Mr. Fetter, in advance of Mr. Fisher in the position taken if not in priority of departure, advocates discarding the older (authentic hedonistic) concept, in form as well as in fact.

<sup>4</sup> In this and similar passages Mr. Fisher appears to be in search of a more competent phrase, which has been used, but which he apparently has not met with—"putative earning-capacity." Certain infirmities of such a definition, whether under one phrase or another, for the taxonomic purpose, will be indicated presently.

license it may be pardonable to speak baldly and broadly of the logic of this retention of the authentic postulate that physically productive goods (including persons) alone are to be included in the capitalization out of which capital value emerges. And what is here said in this connection is not to be taken as a presumptuous make-believe of reproducing the sequence of ideas by which Mr. Fisher has arrived at the position set forth in this book. It is only an attempt to trace the logical sequence between the main hedonistic body of theory and the historical outcome of its development at this point.

In the classical-Austrian scheme of theory the center and circumference of economic life is the production of what a writer on ethics has called "pleasant feeling." Pleasant feeling is produced only by tangible, physical objects (including persons), acting somehow upon the sensory. The inflow of pleasant feeling is "income,"—"psychic income" net and positive. The purpose of capital is to serve this end—the increase of pleasant feeling—and things are capital, in the authentic hedonistic scheme, by as much as they serve this end. Capital, therefore, must be tangible, material goods, since only tangible goods will stimulate the human sensory pleasantly. Intangible assets, being not physical, do not impinge upon the sensory; therefore they are not capital. Since they unavoidably are thrown prominently on the screen in the show of modern life they must, consistently with the hedonistic conception, be explained away by construing them in terms of some authentic category of tangible items.

There is a second line of approach to the same conclusion comprised in the logical scheme of hedonistic economics, more cogent on practical grounds than that sketched above and perhaps of equally convincing metaphysical force. The hedonistic (classical-Austrian) economics is a system of taxonomic science—a science of normalities. Its office is the definition and classification of "normal" phenomena, or, perhaps better, phenomena as they occur in the normal case. And in this normal case, when and so far as the laws of nature work out their ends unvitiated, nature does all things well. This is also according to the ancient and authentic canons of taxonomic science. In the hedonistically normal scheme of life wasteful, disserviceable or futile acts have no place.<sup>1</sup> The current competitive, capitalistic business scheme of life is normal, when rightly seen in the hedonistic light. There is not (normally) present in it anything of a wasteful, disserviceable or futile

<sup>1</sup> Cf., e. g., Clark, *Essentials of Economic Theory*, *passim*.—"Each man who gets, in a normal way, any income at all performs one or more productive functions" *etc.*—p. 92.

character. Whatever phenomena do not fit into the scheme of normal economic life, as tested by the hedonistic postulate, are to be taken account of by way of exception. If there are discrepancies, in the way of waste, disserviceability or futility, *e. g.*, they are not inherent in the normal scheme and they do not call for incorporation in the theory of the situation in which they occur, except for interpretative elimination and correction. In this course the hedonistic economics, with its undoubting faith that whatever (normally) is right, simply follows the rule of all authentic taxonomic science.

As indicated above, the normal end of capital, as of all the multifarious phenomena of economic life, is the production of pleasure and the prevention of pain; and in the Benthamite system of theory—which includes the classical-Austrian economics—the normal end of the life of man in society, economic and otherwise, is the greatest happiness of the greatest number. Such may not be the outcome in any given actual situation, but in so far as such is not the outcome the situation departs from the normal; and such departures from the normal do not properly concern the (hedonistic) “science” of economics, but fall authentically to the care of the “art” of economics, whose concern it is to find correctives for these, essentially sporadic, aberrations. Under the rule of normal serviceability nothing can be included in the theoretically right “capital summation” which does not go to swell the aggregate of hedonistic “services” to man—nothing which is not “productive,” in the sense of increasing the well-being of mankind at large. Persons may, indeed they “normally” should always, be productive in this sense, and persons, therefore, should properly be included in the capital summation.<sup>1</sup>

<sup>1</sup> What is to be done, theoretically, with persons leading disserviceable or futile lives, “undesirable citizens,” does not clearly appear. They are undesirable, but they are of the human breed and so are presumably to be included in the normal human aggregate whose “greatest number” are elected for the “greatest happiness” by the (normally) benevolent laws of nature. The suggestion is, of course, obvious that they should be deducted from the gross aggregate of items—*i. e.*, algebraically added in as negative magnitudes—so as to leave a net algebraic sum of positively serviceable capital goods, including persons. The like might apparently be done with impersonal material items which are wastefully or noxiously employed.

But the converse suggestion is at least equally cogent, that such disserviceable items, personal and impersonal, are simply abnormal, aberrant, exceptional, and that therefore they simply drop tracelessly out of the theoretical scheme, so as to leave the theoretically correct “summation” as large as it would be had these disserviceable negative items not been present. That is to say, the theoretically correct net aggregate serviceability is the same as the gross serviceability, since the negative quantities



In this normalized scheme of economic life all claims represented by negotiable instruments, *e. g.*, must be led back, as is done by Mr. Fisher,<sup>1</sup> to tangible items of serviceable goods; and in its application to the concrete case, the actual situation, it follows from this rule that all such instruments are, normally, evidences of the ownership of such tangible items as serve the material needs of mankind at large. It follows also that there are, normally, no items of differential serviceability included among the property rights covered by negotiable instruments; that in the hedonistic theory of business there are no differential advantages and no differential or competitive gains; that the gain of each business man is, at the most, simply the sum of his own contributions to the aggregate of services that maintain the life and happiness of the community. This optimistic light shed on the business situation by the hedonistic postulate is one of the most valued, and for the wise quietist assuredly the most valuable, of the theoretical results following from the hedonistic taxonomy. And this optimistic light will fall with the surrender of the authentic position that capital is a congeries of physically productive goods. But while this light lasts the hedonistic economist is able to say that, although the scheme of economic life contemplated by him as normal is a competitive system, yet the gains of the competitors are in no degree of a competitive character; no one (normally) gains at the cost of another or at the cost of the community at large; nor does any one (normally) turn any part of his equipment of capital goods to use for a competitive or differential advantage. In this light, the competitive struggle is seen to work out as, in effect, a

actually present among the aggregate of items are not normally present, and are, therefore, theoretically non-existent.

There is a third alternative. The abnormal disserviceable items being indubitably present in fact, and some part of them being present with the hedonistically sacred stamp of the human breed, it may be that, in the apprehension of the adepts, should this problem of taxonomy present itself to them, at least so much of the disserviceable productive goods as are human beings should be counted in; but, since they are persons, and since it is the normal estate of man to be serviceable to his fellows, they should be theoretically counted as normally serviceable, and therefore included in the net aggregate of serviceability at the magnitude of serviceability normally imputable to them. What rule should guide in fixing the true magnitude of imputed normal serviceability for such disserviceable persons in such a case is a further problem of taxonomy which would take the present argument too far afield. This much seems clear, however, that under this third alternative the net aggregate serviceability to be imputed to the sum of capital goods (including persons) should exceed the actual aggregate serviceability by the addition of an amount approximately equal to the disservice rendered by the disserviceable persons in question.

<sup>1</sup> Chapter ii, especially sections 4-9, and pp. 93-96.

friendly rivalry in the service of mankind at large, with an eye single to the greatest happiness of the greatest number. If intangible assets are recognized by the theory this comforting outlook on the business situation fails, because intangible assets are, in the main, of a differential effect only. Hence they are excluded by the logic of the hedonistic taxonomy.

Returning to a point left uncovered above (p. 120), it may be in place to look more narrowly into the definition of capital as "capital value" arrived at by Mr. Fisher, ably spoken for by Mr. Fetter, and apparently in train to be accepted by many economists interested in questions of theory.<sup>1</sup> On its face this formulation seems definite, tangible and stable enough. Such a concept appears to serve the needs of business traffic. But it is a more delicate question, and more to the present purpose, whether the definition has the requisite stability and mechanical precision for the purposes of a taxonomy such as Mr. Fisher's, which seeks to set up mutually exclusive categories of things distinguished from one another by statistically determined lines of demarcation. The question obtrudes itself, as regards this putative value of expected income: Whose imputation of value is to be accepted? Value, of course, is a fact of imputation; and it may seem a ready solution to say that the decision in this question of appraisement is rendered by a consensus of imputation between or among the parties concerned in the capitalization. This consensus would be shown concretely by market quotations of securities, and it would be shown in generalized form by the familiar diagrams offered by all taxonomists of the marginal-utility school. But, concretely, there is not always a consensus of imputations as to the expected value of a given flow of income; in the case of unlisted securities, as well as of other capitalizable property in like case, the appeal to a consensus fails. And, in point of taxonomic theory, the marginal-utility curves apply to the case in hand only when and in so far as the property in question is the subject of a bargain; and, further, the diagrams of intersections and the

<sup>1</sup> "The value of capital is the discounted value of the expected income" (p. 328). "It is found by discounting (or 'capitalizing') the value of the income expected from the wealth of property" (p. 330). "Capital to-day may be defined as economical wealth expressed in terms of the general unit of value." (Fetter, *Principles of Economics*, p. 115). . . . "every good becoming capital when it is capitalized, that is, when the totality of its uses is expressed as a present sum of values" (*Ibid.*, p. 116.) It has elsewhere been characterized as "capitalization of putative earning capacity." The latter is perhaps the more serviceable definition, being nearer to the concept of capital current in the business community.

like are of no avail for the cases, frequent enough in practice, where bargains are struck at the same time for different lots of the same line of goods at different heights on the ordinate. It is only by virtue of broad and intenable generalizations concerning the higgling of the market that the diagrams appear to cover a general proposition as to the actual value of property. The upshot of the matter is that a given block of capital need not, in practice it frequently does not, have one particular value at a given time ; no more than a given expected flow of income need have one particular value alone imputed to it by all, or by a consensus of, the various parties in interest.

A summary review of an actual case taken from current business traffic may illustrate some of the difficulties of arriving, in detail, at such a definite and stable determination of capital value as will serve the needs of "capital summation" as expounded by Mr. Fisher.

A relatively small and inconspicuous corporation managed by two men, A and B, had for a series of years been doing a successful, conservative business in one of the necessities of life, and had achieved an enviable reputation for efficiency and reliability ; that is to say, it had accumulated a large and valuable body of "good will." The only form of securities outstanding was common stock, unlisted, and held by relatively few stockholders. During the late winter and spring of the present year, (1907), the managers of the company gathered from the course of the market that business in their line would probably slacken off appreciably in the immediate future, with small chance of a prompt recovery. They determined to sell out and withdraw to another line of business, not similarly dependant on prices. To this end they set about buying in all the stock of their company, A-B, with a view to selling out the going concern to another corporation, C-D, whose appraisalment of the future (imputation of value) was apparently more sanguine than their own. The outstanding shares of stock were bought in, during a period of some six weeks, by A and B bargaining separately with the several stockholders as opportunity offered, at prices ranging from about 105 to about 125. Meantime, negotiations had been going forward with company C-D for the sale of the concern as a whole on the basis of an inventory of the plant, including the stock of goods on hand. Both the plant and the stock of goods were somewhat extensive and scattered. With the inventory as a basis the concern was sold at an aggregate price which included a fair allowance for the intangible assets (good will) of the going concern. The inventory was taken on the basis of the last previous monthly price-current, and the transfer to C-D took place on that basis. As counted on by A-B, and as ap-

parently not counted on by C-D, the next succeeding monthly price-current showed a decline in the market value of the stock of goods on hand of some nine or ten per cent; and the subsequent course of the market, as well as of the volume of traffic in this line of business, has been of the same complexion. The transfer of the concern, all told, from A-B to C-D took place at figures which aggregated an advance of some 25 per cent over the cost to A and B, counting the stock of the corporation at an average of the prices paid by them for such shares of stock as they bought in from other stockholders, which was rather more than one-half of all the outstanding stock.

The question now is: What, for purposes of "capital summation," should be taken as the basis of the capital value of corporation A-B last spring, say, at the date of the transfer to C-D, or at any date during the buying-in of the outstanding stock? During all this time the "capital value" must have been something over 100 per cent of the nominal capital, since none of the stock was bought at less than 105. But the shares of stocks were bought in, scatteringly, from 105 to 125, with an average in the neighborhood of 115; while the aggregate price of the going concern at the same time seems to have been in the neighborhood of 140 per cent of the nominal capitalization. Should the last transaction in the purchase of stock from day to day, running incertainly between 105 and 125, be construed to revise the "capital value" of the concern to that date? This would make the "capital value" skip capriciously back and forth within the 20 points of the margin, in attendance upon the last previous "consensus of imputation" between a given seller and one or the other of the two buyers. The final average of, say, 115, had not at that time been established, so that that figure could not be taken as a basis during the interval. Or should the stipulated price of the going concern rule the case, in the face of these transactions taking place at figures incompatible with it? Again, at the date of the transfer to C-D, was the "capital value" immediately before the transfer the (indefinite) rating given by the then owners, A and B; and was it, the next minute, to be counted at the price paid by C-D; or, at the nominal capitalization; or, at the (indefinite) figure at which C-D might have been willing to sell? What further serves to muddle the whole question is the fact that the transfer price of the going concern had been agreed upon between A-B and C-D before the whole amount of the outstanding stock had been bought in by A-B.

This case, which is after all sufficiently commonplace, offers a chance for further refinements of confusion, but what has been said may serve

to illustrate the point in question. The difficulty, it will be noticed, is a difficulty of classification, not of business procedure. There are no difficulties of mutual intelligibility among the various parties engaged in the transactions. The difficulties arise when it is attempted to define the phenomena for some (taxonomic) purpose not germane to the transactions in question, and to draw lines of demarkation that are of no effect in the business affairs in which these phenomena arise. The resulting confusion marks a taxonomic infirmity in the proposed capital concept, due to an endeavor to reach a definition from a metaphysical postulate (of hedonism) not comprised among the postulates on which business traffic proceeds.

This fable teaches that it is a wise hedonist who keeps his capital concept clear of all entanglement with "capital value," and, more particularly, with the live business notion of capitalized earning-capacity.

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THORNSTEIN VEBLEN.

## REVIEWS

*The Reconstruction Period.* By PETER JOSEPH HAMILTON.  
Philadelphia, George Barrie and Sons, 1905.—xxi, 571 pp.

*The Rise of the New South.* By PHILIP ALEXANDER BRUCE.  
Philadelphia, George Barrie and Sons, 1905.—xxi, 491 pp.

These books constitute volumes xvi and xvii of *The History of North America*, a series edited, at the outset, by Guy Carleton Lee, now by Francis Newton Thorpe. If every section of the Union receives the same generous allotment of space and attention that is given to the South, this particular monographic history is bound to be a notable one, at any rate in bulk. The two volumes before us deal almost exclusively with the region in which slavery existed until the Civil War, and cover only the period since 1865. Mr. Hamilton's subject does not seem to require that he confine himself to the one section, but he has chosen practically to do so; only two of his twenty chapters—50 of his 550 pages of text—purport to deal with affairs outside of the South. Mr. Bruce's volume is limited by its title to Southern affairs, and there is no tendency whatever in the text to evade the restriction thus imposed.

The selection of authors for these volumes reflects much credit on the editor. Messrs. Hamilton and Bruce are both Southerners, both of the generation that has reached maturity since the completion of Reconstruction, both of inherited culture and of university training and both experienced investigators in various fields of Southern history. The time has gone by when birth or training east of the Connecticut River was indispensable to any acceptable interpretation of our national history, and the time is fully come when a Southern point of view can contribute most effectively to the clarification of our traditions and our ideals.

The plan of this history does not contemplate, however, any striving after new or startling treatment of its subject-matter. The work is popular rather than scientific, so far as these terms are antithetic. There are no footnotes; there are many pictures; and the pictures are obviously chosen and distributed through the volumes by the publishers rather than the authors. It certainly was not Mr. Hamilton who

garnished his account of the settlement of 1877 by a flashlight photograph of the "Room at New Orleans in which Jefferson Davis died," and illuminated the administration of Governor Brownlow in Tennessee by a portrait of "Thomas Hart Benton." Nor should Mr. Bruce be held responsible for the light thrown on the political condition of the new South by the snapshots of "The heart of a swamp on Pearl River" and "A pioneer's cabin on the shore of Lake Worth," or for the illustration of present railway growth by a view of the "Cathedral of the Archdiocese of Baltimore."

Mr. Hamilton's account of the reconstruction in the South is a plain, clear, straightforward and generally accurate narration of well-known occurrences. He has apparently used the best secondary and the most important primary sources. He so distributes the emphasis in his narrative as to reveal his convictions that the treatment of the vanquished by the victors was unjust and cruel, but he does not think of the difficulties of the problem which the Northern statesmen had to solve. To the honest but mistaken policy of Andrew Johnson he ascribes the ultimate responsibility for the most distressing features of Reconstruction—those, namely, that attended the imposition of unrestricted negro suffrage. The South suffered more, Hamilton says, from Johnson's friendship in opposing the fourteenth amendment than from his enmity on the question of secession (p. 220).

The chief features of carpet-bag and negro rule in each of the reconstructed states are given with some fullness and constitute a considerable portion of the volume. In so comprehensive an undertaking, small errors are inevitable. O. P. Morton was not a "leader of Congress" when the conflict between Johnson and the Radicals began, and was, moreover, at that time a warm supporter of the president, not an advocate of negro suffrage (p. 163). The Mechanics-Institute riot in New Orleans in 1866, and the Baxter-Brooks disturbance in Arkansas in 1874 are very erroneously described (pp. 301, 371). Hooker did not fight the battle of Fredericksburg, nor was it fought by anybody in 1863 (p. 464).

In the two chapters devoted to "Reconstruction at the North" and "A Centennial Settlement," the author's hold on his facts is often quite uncertain. He errs seriously in his statement as to the scope of the Missouri compromise and as to Henry Clay's connection with its enactment (p. 507). To General Thomas is wrongly assigned a part in the operations under Grant about Vicksburg (p. 417); Seward is twice represented as secretary of state under Grant (pp. 524, 527); it would be interesting to have explained how the hold of the spoils system

on Congress was proved by the "salary grab" and the *Credit Mobilier* (p. 540).

All these and other errors do not, however, spoil the book. There might be quoted a far longer list of concise generalizations and happy phrases which give to Mr. Hamilton's work not only solid value but also at times an unmistakable charm. We may willingly tolerate a host of shortcomings in one who, modifying the familiar dictum of Matthew Arnold, sums up the religion of the negro as "emotion, slightly touched with morality" (p. 479)!

Mr. Bruce's volume at first sight unquestionably gives the impression that it is precisely what the editor assures us it is not—"a dry and lifeless report upon the condition of the South." Closer examination, however, justifies the editorial view. Despite the long series of uninviting statistical statements which constitute the bulk of the volume, the reader who follows them becomes gradually aware of a momentous historical process that takes shape out of the pages. The theme of the work is in fact a very remarkable instance of social and economic metamorphosis in a community not new, unsettled and easily moved, but old and firmly rooted in soil and tradition. The transformation of Japan from mediæval to advanced modern life hardly surpasses in dramatic interest the process which is still going on south of Mason and Dixon's line.

Mr. Bruce presents the facts of the process in a detailed statistical review of population, agriculture including forest products, fisheries, mining, manufactures, commerce, finance, transportation, winter-resort business, education, literature, social conditions and political conditions. A general summary (chap. xxxii) presents concisely the author's conclusions as to the significant features of the development he has traced. Seven facts represent what in the exuberance of his conviction are called in a single sentence (p. 455) the "kernel" of Southern achievement since the war, the "foundation stones" of material greatness and the "stars of hope that point to" increased intellectual strength in the future. The facts that serve these useful but rhetorically somewhat incompatible purposes are as follows: sub-division of lands; diversification of agriculture; growth of manufactures; extension and consolidation of railroads; spread of education; more rapid expansion of the white than of the black population; and restriction of the suffrage.

The economic transformations indicated by the first four items in this list are made perfectly clear by the statistical analysis, though the author's inferences are sometimes a little more optimistic, perhaps, than the facts warrant. The last three items are all thoroughly permeated,



in their statistical support, by the influence of that problem on which, after all, the reader will inevitably tend to concentrate his attention—the problem of the races. On this point Mr. Bruce is a Southern white of the rational, not the emotional type. He believes that if the new South conforms in economic and social ideals and methods to the progressiveness and materialism of the North, the black race is doomed to ultimate extinction. The subdivision of the plantations, with the growth of small farming, will drive the negro to the towns, and the life of the towns will kill him off.

The vaster the growth of the Southern states in wealth and white population, the sharper and more urgent will be the struggle of the black man for existence . . . . The day will come in the South, just as it came long ago in the North, when for lack of skill, lack of sobriety and lack of persistency the negro will find it more difficult to stand up as a rival of the white workman. Already it is the ultimate fate of the negro that is in the balance, not the ultimate fate of the Southern states in consequence of the presence of the negro. The darkest day for the Southern whites has passed . . . . The darkest day for the Southern blacks has only just begun; for in this age of the world no race can in the long run hold its own in a civilized land unless it has all the moral qualities necessary to meet successfully the trying conditions of life prevailing in a highly organized modern community.

In the restriction of the suffrage by the Southern states Mr. Bruce sees not only a necessary means of removing the blacks from political influence, but also an important step toward the substitution of education and property for mere manhood as a general basis for the suffrage. He believes that the restriction will ultimately be enforced regardless of race, and that under such circumstances it will contribute much to restore the Southern states “to that commanding position in the Union to which they are justly entitled.” Whatever we may think of Mr. Bruce’s amiable excursions into prophecy, we cannot deny to him the credit for sound and substantial work in his proper field of history.

W. A. D.

*Life and Public Services of William Pitt Fessenden.* By FRANCIS FESSENDEN. Boston, Houghton, Mifflin and Company, 1907. Two volumes, vi, 374, 367 pp.

The subject of this biography belongs in that class of public men who accomplish a vast amount of work but who, perhaps more from lack of picturesqueness than of any other quality, are soon forgotten. Probably comparatively few living Americans could name a single measure with

which William Pitt Fessenden was connected, or even tell in what period his activities fell. Yet for many years he was one of the foremost leaders of the United States Senate, was chairman of the committee on finance and then secretary of the treasury in one of the greatest crises of our history, was chairman of the important committee on reconstruction, was one of the ablest debaters and constitutional lawyers of his time, and probably did more than any other man to save a president of the United States from being deprived of his office. The present work is intended to rescue his memory from oblivion. The author, a son of the statesman and himself a gallant soldier in the Civil War, died before the manuscript was entirely ready for publication; and the final revision was made by another son, James D. Fessenden. The two volumes consist in large measure of letters and of excerpts from the statesman's speeches and public papers. To the historian the book will be of value chiefly for these documents, especially for those that bear upon financial affairs, reconstruction, the effort on the part of the Republican senators to force Seward from the cabinet, and the impeachment of Johnson. Fessenden's opinions of the public men of the time are also interesting and to a certain extent illuminating. Of Daniel Webster, with whom he took a trip through the Middle West in 1837, he wrote that "Mr. Webster would never gain popularity by personal intercourse; to strangers he appeared repellant." His opinion of Lincoln is valuable as reflecting that of a large number of Republican leaders during the early years of the war. It is far from agreeing with the popular idea of the present day that Lincoln was a sort of demi-god. "The simple truth is," wrote Fessenden in January, 1863, "there never was such a shambling, half-and-half set of incapables collected in one government before since the world begun. I saw a letter this morning written in good English by the King of Siam to Admiral Foote, which had more good sense in it, and a better comprehensiveness of our troubles, I do verily believe, than *Abe* has had from the beginning." Even after he was a member of the cabinet, Fessenden wrote (August, 1864): "The president is too busy looking after the election to think of anything else. I am glad it is so, for the less he interferes in other matters the better for all concerned. Yet he is a man of decided intellect and a good fellow, able to do well any one thing if he was able or content to confine his attention to that thing until it was done. In attempting to do too many things he botches them all." In Fessenden's estimation, no other man rendered greater services, if as great, in suppressing the rebellion as Secretary Stanton. This view he continued to express even after relations between him and Stanton were at an end.

In giving the book to the public the authors have performed a real service to history. Few biographies written by relatives show less bias—less of what Macaulay was fond of calling the *lues Boswelliana*. The narrative sometimes backs and fills in a manner that is confusing, and exception could easily be taken to some of the statements; yet, as a whole, the work has been well done. It is to be hoped that it will help to give Mr. Fessenden the place in history to which his great services undoubtedly entitle him. He was not what is called a "popular figure," and even in his own time he was less known than some men who did not have a tithe of his influence on events. He was regarded as being cold and excessively dignified; and, owing largely to bad health, he was so irascible that Senator Trumbull in the heat of debate once told him that he had alienated all his friends. But he was an able man, a conscientious public servant, an indefatigable worker, wise in council, pure in both public and private life, an undying enemy of all shams and sophisms, and he possessed to an eminent degree the respect even of those who did not love him. His name deserves to be remembered as among the foremost of those who in a time that tried men's souls wrought mightily for the preservation of the Union.

PAUL LELAND HAWORTH.

CLEVELAND, OHIO.

*The American Revolution.* By GEORGE OTTO TREVELYAN, Bart. Part III. Longmans, Green and Co., New York, 1907.—492 pp.

Those who have read the fascinating earlier volumes of Trevelyan's "American Revolution" will find in this new volume the same quaint and personal touch, the same exquisite satire, the same easy mastery of what the author knows about his subject, and epigrams fitted as nicely as ever into the serious portions of the text. There is, too, the old way of rambling, which carries the reader irresistibly along, but just as surely causing him to lose the logical development of the story. The pages abound in new lights—rush lights, in the main—upon the questions involved. They are largely personal matters and incidents hitherto ignored. Perhaps no other historian has had the happy art or the style which would admit of such intrusions into the narrative.

The author still remains the ardent Whig and the enthusiastic admirer of an idealized revolutionary America, yet with all his sympathy he has written an Englishman's history of the Revolution. This is chiefly shown in his lack of interest in American institutions and in his

blindness to the political revolution which was going on here during the struggle for independence. He ignores the state constitutions and the rise of the democratic forces in the states. He shows (p. 29) an astonishing ignorance of the variety of the local government systems in the thirteen colonies, the county government in the South and the mixed township and county system in the middle states having never come to his attention. Again (page 89) he attributes to Washington and "sterling patriotism" the fact that the revolutionary excesses, the "Reign of Terror" and the suspension of the civil constitution by the military power, which characterized the French Revolution, did not appear in America. The stability of local government in America, which preserved order after the central authority was removed, has escaped Trevelyan's notice. The Loyalist is to him only an aggravated English Tory, who is always the villain in the play, sometimes to be pitied, more often to be despised (chap. ii). Trevelyan has depended largely upon Sabine for his knowledge of the Loyalists, and thus falls into such errors as when he ignores the services of the Loyalists—especially of the Northern and Middle States—in the British regular army (p. 51). He in no wise fairly estimates their services as loyal militia, and speaks (p. 144) as if the mere fact of their being Loyalists made them cowards. In general the author delights in taking a weak character, and heaping Pelions of reproach upon Ossas of condemnation. This may be seen especially in his treatment of Gates, Lee and Burgoyne. Congress too comes in for such treatment, and Trevelyan has the old-fashioned idea (pp. 24, 293) of its weakness being due to the poor material in its membership and to the democratic theories which led it to adopt the committee system of doing executive business. The truer explanation is that colonial or state jealousies made it impossible, as a rule, to let any one man, who must of course come from some one colony, take the whole responsibility for any important function of government.

The sources which the author has used are the well-known old ones. He is still giving full faith and credit to Gordon (p. 1), as if he were the Thucydides of the American war instead of the prince of plagiarists, which Mr. Libby has shown him to be (*Report of American Historical Association*, 1899, vol. i). The author has made no use of most important monographs, *e. g.*, Hatch, *Administration of the American Revolutionary Army*, Paullin, *The Navy of the American Revolution*, Flick, *Loyalism in New York*, Friedenwald, *Declaration of Independence*, Cross, *Anglican Episcopate*—all of which he needed greatly for the understanding of important phases of his subject. He

has also missed many important magazine articles. Trevelyan is careful to acknowledge his quotations from other secondary authors, but there is no consistent effort to substantiate positive statements upon one or the other side of controverted points. Many notes are rather ornamental than useful. Magazine articles are often referred to by title with no indication of the place where they may be found, and, as there is no bibliography, verification is difficult.

The present volume closes with the formation of the French alliance, so that we may expect one if not two volumes more of this most entertaining of the histories of the American Revolution.

C. H. VANTYNE.

UNIVERSITY OF MICHIGAN.

*The Spirit of American Government.* By J. ALLEN SMITH.  
New York, The Macmillan Company, 1907.—xv, 409 pp.

In this volume the author undertakes to show that our constitutional system is not only undemocratic and out of harmony with the spirit of the twentieth century but is very largely answerable for the so-called evils of democracy. His first contention is that the framers of the federal constitution were conservative and extremely fearful of democracy, the fervor of the revolutionary days having made no impression on the staid and masterful men who composed the convention. In short Professor Smith holds with President Woodrow Wilson that the constitution was the outcome of a conservative reaction directed by "a strong and intelligent class, possessed of unity and informed by a conscious solidarity of material interests." Having crystallized their interests in the written document, the Fathers thereupon proceeded to protect the ruling minority forever by an amendment clause that made innovation practically impossible.

The central point of our author's criticism of the federal government is the Supreme Court, which he designates with Boutmy as "a small oligarchy of nine irremovable judges" (p. 99). In England, tenure during good behavior was established to secure the freedom of the judges from an irresponsible executive control while making them responsible to Parliament; in the United States, on the other hand, the design was to raise above the representatives of the people a political tribunal of limitless powers and beyond the reach of popular control, Hamilton's "seeming anxiety lest the legislative body should disregard the will of the people" being, according to Professor Smith "a mere demagogic attempt to conceal his real motive" (p. 83). The court

therefore is a permanent bar to social progress, and instead of being a safeguard to democratic institutions it is more likely to be a serious menace to order and progress by restraining popular will to the danger point.

In the same category with the federal judiciary Professor Smith places the committee system in Congress, the prevailing party organizations and the check and balance doctrine—all of which tend to confusion and irresponsibility on the part of the government and open wide the door to those corrupt influences which are the real evils in our democracy. Here the writer has made all possible use of the criticisms advanced by Bryce, Ostrogorski and Goodnow, and he comes to the conclusion that our whole system—created in an age of semi-monarchical institutions—is out of harmony with the modern tendency toward unlimited but directly responsible government.

Turning from law to economics and sociology, Professor Smith argues that our political institutions are badly adapted to the work which social progress throws upon them. They were created in an age of agriculture and handicrafts—that is, of individualist production—and now they are expected to do efficient work in an economic system in which social production is the predominant feature.

While agreeing with Professor Goodnow (*Politics and Administration*, pp. 165, 166) that American government is not really popular, our author is more drastic in his proposals for reform. Radical changes in structure which Professor Goodnow believes to be out of the range of practical politics, Professor Smith advocates as highly desirable. The power of the courts to decide on the constitutionality of laws should be removed or subjected to popular will, and efforts to secure direct responsibility should be made at once—beginning perhaps in the state governments, along the line of the recent Oregon law designed to control, among other things, elections to the Federal Senate.

CHARLES A. BEARD.

*Trattato di Politica Commerciale.* By LUIGI FONTANA-RUSSO.  
Milan, Ulrico Hoepli, 1907.—xvi, 640 pp.

Students of international trade and commercial policy have long suffered from a lack of comprehensive treatises covering the general field of foreign trade. Monographs devoted to special phases of the theory or to particular periods of the history of commercial policy form an extensive literature; but for a broad treatment of principles we have been forced to rely upon the works of the classical economists and their modern disciples, like Bastable, which, while admirable in their un-

compromising logic, are based upon premises that the modern student feels are too narrow to correspond with the facts of life. Professor Fontana-Russo has undertaken the task of summarizing what is most significant in the theory and practice of commercial policy. In his preface he modestly writes: "I do not know whether or not I have attained the object which I have attempted." The reader will have less doubt on the subject. There are many matters of detail, and some matters of principle, in which the author appears to be at fault; on the whole, however, the book is admirably suited to its purpose. Even where the reasoning is unsound, the candor of the author in stating his premises and the lucidity with which he develops his argument safeguard the careful student against serious error. In the reviewer's opinion, the book is the most valuable in its field—an opinion which I state thus explicitly because I intend to devote most of the remainder of this review to the defects of the book.

Professor Fontana-Russo's treatise is divided into three books, on "The Theory of International Trade," "The Theory of Commercial Policy" and "The Technique of Commercial Policy." In the first book are treated such subjects as comparative costs and international values, the economic balance, money in international trade, and the foreign exchanges. The second book covers the field of protection and free trade, the relation of commercial policy to expansion of population, the effect of duties upon the distribution of wealth, and colonial policy. The third book treats of the various kinds of customs duties, the proper measure of protection, the shifting and incidence of customs duties, commercial treaties, *etc.*

In his discussion of comparative costs and international values our author follows the classical method of arriving at principles without introducing the concept money. Whether this is really the most satisfactory plan or not remains to be determined; at any rate, it has proven fruitful in the past, and proves still fruitful in Professor Fontana-Russo's hands. In his treatment of money he adopts the quantity theory, with some qualifications that appear to the reviewer very unfortunate. Thus on page 93 the author says that the value of money depends not only on its quantity but also upon its cost of production—a view that will hardly be accepted by anyone. To those who hold to the quantity theory it appears self-evident that cost can influence the value of money only as it affects the quantity of money. The fallacy consists in coördinating, as parallel causes of a given effect, two phenomena that are themselves related as cause and effect. Most money theorists will also quarrel with the view (p. 72) that the importation of money causes

first a fall in the value of money and then a rise in general prices, since the fall in the value of money and the rise in general prices are one and the same phenomenon, regarded from different points of view.

The least satisfactory part of this book is that which deals with the effect upon imports and exports of the *agio*, or premium on gold, in countries employing a depreciated silver or paper currency. The silver men of a decade ago made much capital of the idea that enterprisers living in a country having a depreciated currency enjoyed a virtual premium on exports. So far as a depreciating currency is concerned, the contention was sound; substitute, however, "a depreciated currency" for "a depreciating currency" and the contention is sound or fallacious according to circumstances. In a given country the movement of domestic prices may be sluggish, custom and habit playing a large part in their determination. If silver is the general medium of exchange, prices in silver do not at once rise when silver falls relatively to gold, nor do they at once fall when silver rises relatively to gold. So long as the enterpriser can buy commodities at the customary silver prices and sell them abroad for gold, exchanging the latter for an increased amount of silver, exportation is naturally more profitable than usual. If on the other hand silver rises, relatively to gold, the contrary effect is experienced; exportation becomes less profitable than usual. It is therefore impossible to say that a premium on gold as such either encourages or discourages exportation; an increasing premium encourages, a decreasing premium discourages. Our author has failed to take due account of the effect of a decreasing premium on gold; hence he has reached the erroneous conclusion that exporters are more likely to gain through the existence of a premium on gold than to lose through it.

A more palpable error appears when Professor Fontana-Russo discusses the question whether the *agio* is due to a rise in the value of gold (in respect to commodities) or to a fall in the value of silver. He concludes that when the *agio* is due to a rise in the value of gold, there is no effect upon exportation from the silver-using country; when it is due to a fall in the value of silver, exportation is stimulated. Reflection will show that there is no diversity in the nature of the two metals which could produce such a diversity in effects. It is possible that price movements in silver-using countries are more sluggish than in gold-using countries, and this might in fact create such a diversity in effects. The author, however, is unconscious of the fact that any premise of this nature underlies his argument; hence he reaches a conclusion which has no foundation in fact or in reason.



In his treatment of protection the author takes the position of a moderate liberal. Protection is justifiable, in his view, whenever it makes possible the establishment of an industry which in time will be able to get on without protection. A protective system is useful as a means for facilitating the transition from one economic stage to another and superior one. In transitional periods, not only the new industries which it is desired to establish should receive protection, but also the old industries, declining under the effects of foreign competition, should be protected until the capital invested in them can be diverted to more profitable fields. Professor Fontana-Russo's defense of protection is thus a combination of the infant industry and the vested interests arguments. The latter argument, in his discussion, is purely economic. Nothing is said of the ethical claims of those whose capital is fixed in decaying industries. In this, it appears to the reviewer, the author has abandoned a tenable defense of protection for an untenable one. No industry decays unless capital is less productive in it than in the average industry of the nation. No industry dies outright unless it fails to pay average wages and average interest on circulating capital. If it can not do this, national capital is wasted, not saved, by enabling the industry, through protection, to earn interest on fixed capital. There may be an ethical reason why the nation should waste its capital in order to enable individuals to save their capital; there can be no economic reason for such a policy.

In his discussion of the proper measure of protection (pp. 475 *et seq.*), the author adopts a standard which bears a superficial resemblance to that of certain American moderate protectionists, namely, the difference between average domestic costs and least foreign costs. A system based upon such a standard, in the form employed in American discussions, would give rise to all the abuses of protection save one—the formation of monopolies behind the tariff wall. On this basis we could defend a policy which seeks to produce wine in Scotland or bananas in Spitzbergen. Professor Fontana-Russo wisely introduces an important qualification. The disadvantages under which a given branch of domestic industry may labor he classifies as "economic" and "functional." Economic disadvantages are those which have their origin in the natural environment or in the degree of density of population. Functional disadvantages are those arising from lack of enterprise, deficient industrial training, *etc.* The essential point of difference is that the former can not be removed in a reasonable time, while the latter can. Now, protective duties should be sufficient to compensate for functional disadvantages; they should make no allowance for economic disadvantages.

When the author devotes his attention to an interpretation of the actual development of tariff systems his reasoning appears inconclusive. He is quite convinced that protectionism alone saved Germany from disaster in the latter half of the nineteenth century. Suppose that the Germans had been able to buy goods more cheaply under free trade; what would this have availed them if they had been unable to produce anything wherewith to pay for imports? The view which this implies might be excusable in a writer who knows nothing of the principles of international trade; in the present case it must be ascribed to carelessness. Possibly the author is less painstaking in his reasoning because he holds that in this field reasoning does not greatly matter (p. 417). Theoretical discussions have never weighed heavily against practical interests. This we must all admit. But when the author asserts that it is the "real interest" of a country that determines what its commercial policy shall be, many of us will refuse to follow him. Historical economists and practical men have a bad habit of confusing the predominant interest of a country with the interests predominant in the country. That the latter will shape its commercial policy is a truism. But it can not be said that the interests that dominate the politics of a state are ever greatly concerned with the real interest of the people as a whole.

The effect of protection on the distribution of wealth is a subject well worthy of careful analysis, and we naturally turn with interest to the author's discussion of this matter (book ii, chapter vii). This, unfortunately, is very disappointing. The author appears to have no clear view of the general laws governing the distribution of wealth. What are we to think of the opinion that when all the land of a state has been occupied, interest rises (which, by the way, is untrue) "because the reciprocal demand, which formerly was in favor of labor, now assumes a position wholly favorable to capital" (p. 299)? That the author's study of general economics has not been thorough is further evidenced on page 298, where he confuses the "law of diminishing returns" of the English classical school with the law of depreciation of land under extensive cultivation. The latter does indeed deserve more attention than it usually receives. But failure to appreciate the bearing of the true law of diminishing returns is perhaps the most prolific source of error in popular discussions of commercial policy; it has led our author into a number of serious errors.

The chapter on the shifting and incidence of duties (pp. 516 *et seq.*) is, in its general conception, admirable. The author properly regards it as one of the most important in the work. In some of its details,

however, it needs emendation. We meet here with the common mistake that the so-called monopoly that a country enjoys (*e. g.* the American monopoly of cotton) is a true monopoly, with prices determined by the law of monopoly price.

In his references to American conditions the author has not escaped without a few trifling errors. On page 173 he implies that the United States treasury actually failed, in 1893, to meet its demand liabilities in gold. On page 285 it is alleged that the development of American cotton manufactures has contributed largely to the expansion of the American cotton-growing area—a position hardly tenable, in view of the fact that American cotton manufacturing is not more effective than the English industry which under free trade would supply the American market. On page 282 the author seems to imply that by 1850 all the land in the United States, except on the Pacific slope, was occupied by settlers. On page 384 the Philippines are classed with colonies assimilated in commercial policy with the mother country, although on page 378 the author shows that he has a more accurate view of the commercial position of those dependencies. On page 460 (note) the statement is made that the present tariff law prescribes a differential duty of ten per cent on goods imported in ships “not belonging to the Union.” If this were true we should have fewer complaints from the “friends of American shipping.” On page 490 it is stated that the reason for the migration of the cotton mills to the South is the desire of the manufacturers to gain control of the sources of raw material—a quite erroneous interpretation of the phenomenon.

It is perhaps dangerous for an American to call attention to an author's misuse of foreign words, since we, as a nation, are among the worst offenders in this respect. Nevertheless, I shall note a few, in the interest of the next edition. I find New Sout Wales (p. 271), New South Walles (p. 278), Nuova Sud Wales and Nuova Sud Walles (p. 341), but New South Wales never. Sherman is written Scherman (p. 172); Ashley, Aschley (p. 476); McKinley, McKlinley (p. 518); E. R. A. Seligman, A. H. Seligman (p. 517); J. S. Nicholson, G. S. Nicholson (p. 517); Edgeworth, Edegewortk (p. 517), and Edge-workt (index). German words have also been severely damaged in transit. *Zollverein* is everywhere written *Zollwerein*. On page 401, note, I find *Reichsinoalidenfonds*, *Reixhsdruckerei* and *Reicsbank*. French words as a rule are written correctly, although I have noted *fix* for *fisc* (401, note) and Leroy-Beaulien (index).

ALVIN S. JOHNSON.

UNIVERSITY OF NEBRASKA.

*Protective and Preferential Import Duties.* By A. C. PIGOU.

London, Macmillan and Company, 1906.—117 pp.

Defining protective duties as imposts which impede the importation of goods that are capable of being made at home and normally yield a contribution to the national exchequer, Mr. Pigou presents his views upon the following questions: What are the probable effects of protective duties upon the national dividend? Granting that they diminish the national dividend, can they be made to promote the national welfare? Is the policy of preferential tariffs advocated by Mr. Chamberlain as a "business question" to be regarded as desirable upon that ground? Is it to be regarded as desirable upon other grounds?

The relation of protective duties to the national dividend is discussed from three points of view, namely, as to the alleged effect of such duties in bringing new capital into the protected country; as to the alleged effect of such duties in extending the market for domestic products; and as a means of preventing "destructive dumping." The argument that protection attracts capital to the protected country is not denied but is shown to be incomplete in that the real question at issue is the net flow of capital, the balance of inflow and outflow. The argument that protection affords a wider market for domestic products is meaningless until we specify which of the multiple senses of "wider market" is intended. In the sense that protection increases the aggregate product of the protected industry, few will dissent from the proposition; in the sense that protection leads to a consolidation of industry in the form of Kartels and of trusts, the wise protectionist does not care to be understood. The usual meaning of the argument is that protection either leads to an increase in the average size of the individual plants in the protected industry, or else enables the existing plants to approach more closely to their full producing capacity. It must be admitted that no satisfactory rebuttal is offered to this reasoning. Mr. Pigou is of course aware of the utter inadequacy, as a reply, of his simple denials: "It can hardly be doubted that, with an aggregate output so great as ours, the point has already been reached after which the size of the whole ceases to be a significant factor in determining that of the representative part." "Its effect (*i. e.* the effect of protection) in stimulating production up to full capacity, or in other words, in diminishing short time, and thus enabling the work to be done more economically, is also likely to be unimportant." The remaining argument, that protective duties may be used as a means of preventing "destructive dumping," is met with the statement that

"there is no evidence of foreign competitors having resorted to dumping with the aim of ruining or destroying an English industry."

It is not intended to traverse the remaining course of Mr. Pigou's presentation of his case; but it is desired to call attention to his exposure of the methods followed in the compilation of "Leaflet no. 88 of the Imperial Tariff Committee (President, Mr. Chamberlain)." It was admitted by the compiler that the facts of the leaflet were taken, in part, from a blue-book issued by the Board of Trade. Mr. Pigou shows that, in the assembling and the presentation of the material of the leaflet, most of the common methods of manipulating figures for political purposes were resorted to; statistical facts and explicit cautions were suppressed; material was selected, grouped and described so as to lead to predetermined conclusions.

The essay reveals a rare combination of talents. At the same time that Mr. Pigou uses the subtle theories of consumer's rent and of elasticity of demand and of supply to establish new theorems in taxation having a direct bearing upon the most pressing practical question before the English people, he persuasively pleads for the rejection of Mr. Chamberlain's "business question" for the reason that it is bad business, and for the rejection of a certain argument advanced by Professor Ashley, for the reason that "it is mere academic theorizing."

HENRY L. MOORE.

*English Local Government from the Revolution to the Municipal Corporations Act: The Parish and the County.* By SYDNEY and BEATRICE WEBB. London and New York, Longmans, Green and Company, 1906.—xxv, 664 pp.

It is an interesting but entirely explicable fact that hundreds of teachers in colleges and secondary schools throughout the United States are laying great stress in their instruction on the early forms of English local government while practically neglecting the far more important development which has taken place since the middle ages. They know (or think they know) the composition of the county court in Henry II's time, but they can not tell what became of the court or how a county highway could be opened to-day. They dwell at length upon the elements of feudalism, but very few of them could explain by what concrete process seignorial franchises disappeared. They are not to blame for this, because the curious mental aberration which led scholars to go to the German forests for the beginnings of liberty has resulted in such a total neglect of the really great period in the development of

English local institutions that the teacher has no authorities upon which to rely.

Some atonement for this neglect is now at hand; for Sydney and Beatrice Webb have planned an elaborate and exhaustive work on local government in England and Wales from 1689 to 1835 and have given some indication of their intention to continue their labors until the more recent developments have been investigated. The first instalment of this monumental work, to consist of five or six volumes, will deal with the structure of local institutions and their actualities, that is, with the constitutional form and administrative procedure of every type of local authority in its historical evolution. The second instalment will describe these authorities at work in the discharge of their important obligations, such as the relief of destitution, the prevention of crime and the regulation of trade. Unlike the great treatises by Gneist, which rest largely on statutes and formal papers, this new work is based upon extended investigations of every kind of source, printed and manuscript: statutes, local histories, minute-books, newspapers and even fiction. To make the research wide-spread and thorough, the authors are being assisted by an able corps of searchers whose extensive labors are revealed even by a casual glance at the formidable array of notes and bibliographical materials.

The first volume of this great enterprise has now appeared. Our authors take the parish and its people as their starting-point (pp. 1-269). They frankly state that the historian who does not want to leave out of account the lives of five-sixths of the population will find the constitutional development of the parish and the manifold activities of its officers at least as important as dynastic intrigues, the regrouping of parliamentary factions or the complications of foreign politics. They begin with a description of the legal framework of the parish, its area and membership, its officers, servants, incumbent and vestry. Then follow chapters on the living parish at work. How poor are all our attempts to realize the organization and operation of government from statutes and legal treatises is completely demonstrated by the pages which show us the parish oligarchy, the uncontrolled officials, the boss or the turbulent vestry attacking the problems before them. The typical rural parish was one in which the laborers, who included two-thirds of the heads of families, had no position other than that of recipients of relief, and in which the business was managed by a small group of "intimate neighbors, tenants of the squire, and employers of paupers, presided over by the clergyman or senior churchwarden and dominated by the neighboring justices of the

peace" (p. 49). In some of the more compact and peaceful parishes the governing oligarchy evolved into an orderly and harmonious open vestry, the administration being carried on by the parish officers with the continuously expressed assent of the rate-payers (p. 52). In the new manufacturing districts, however, we see a disintegration of the time-honored relations of the rural community and the assumption of power by practically uncontrolled parish officials, many of whom seem to have been irregular in their accounts. In some of the most densely populated parishes, inhabited by the irresponsible poor, the boss makes his appearance, courting popular favor and incidentally helping himself to the public revenues (pp. 79 *et seq.*). The boss, however, brings administrative efficiency and orderly, precise and business-like government. Lastly there is the parish with a closed or select vestry composed of a dozen or so of important local personages and perpetuating itself by coöptation.

The second part of our authors' first volume (pp. 279-607) is a treatise on the county, along the lines of investigation laid down in the chapters on the parish. There is a brief description of the legal constitution of the county, and this is followed by a chapter on the real rulers of the county, which is full of suggestion for those who suppose that there was anything popular or democratic about the government of England after the Glorious Revolution. Here is worked out at length the characteristics of the local oligarchy of justices of the peace and their patrons after the strict control of the Tudor system was relaxed. Those who associate centralization with original sin will do well to compare this government with that of the present time in England.

Three chapters describe the powers, procedure and work of the justices of the peace, in and out of sessions. So far as the general outline is concerned, there is not much in these pages (387-474) that is new to students familiar with their Lambard, Dalton and Burns; but they afford an insight which no formal treatise can give into the personnel of the county justices and the ways in which they did business. We get lively glimpses of some of the petty conventions of the justices, where "all matters relating to their office are with great judgment and silence agitated and determined amid the smoking of pipes, the clattering of pots and the noise and ordure of a narrow room infested with drinking and a throng" (p. 424).

The most important contribution which our authors have made to our knowledge of the local magistrature pertains to the development of extra-legal executive organs, carrying out the orders of the Quarter Sessions. The sheriff gradually loses some of his ancient functions and

the justices rely more and more on the local constables ; gratuitous service proves inefficient and there is a slow evolution of a staff of paid executive officials ; the justices form among themselves a network of committees for special purposes ; and a quasi-legislative power is exercised under no obligation to submit orders to a central secretary for approval. In short, a governing oligarchy is formed in every county,

composed exclusively of magistrates and such persons as they chose to consult ; meeting privately at any dates and in any places ; convened by chairmen, served by salaried officials and advised by committees all unknown to the legal constitution ; deliberating on matters without formality or notice ; recording or not recording their "orders," as they chose ; amending them, varying them or rescinding them as the haphazard majority of the moment thought fit ; and issuing them with undisputed authority as friendly "recommendations" to all justices of the county, as requests to local committees of justices meeting in special or petty sessions or as private "instructions" to their salaried executive staff—even publicly advertising them to the ordinary citizen as the principles according to which future judicial decisions would be given (p. 550).

This well-knitted local oligarchy was not without resistance, for toward the close of the period under consideration a reaction set in against it which was the precursor of the democratic reconstruction.

CHARLES A. BEARD.

*The English Patents of Monopoly.* By WILLIAM HYDE PRICE.

Boston and New York. Houghton, Mifflin and Company, 1906.—261 pp.

The subject of the Tudor and Stuart monopolies has long called for adequate historical treatment. Monopoly became a political byword during the central crisis of English history. Raleigh defended the patents, for practical reasons, with a blush. Bacon who had theoretical as well as practical reasons found it desirable to meet popular prejudice with an evasion. The question had become a *chose jugée* in the minds of the English people long before Adam Smith supported the verdict with scientific reasons ; and after it was thus strengthened the condemnation of monopolies became one of the commonplaces of the historian, as may be seen in Macaulay's essay on Bacon. However fundamentally just this verdict may have been, there was bound to be a reaction from it. It had been arrived at under too great a stress of political feeling to allow of a calm consideration of the question in the abstract. Bacon's statecraft, however morally reprehensible and politically inop-



fortune, had in it some of the germs of a new political science. When the rise of the historical method brought a fuller conception of the functions of the state as an organ of civilization, the defence of monopoly as a necessary instrument of state policy became an inevitable enterprise of scholarship. The defence, it is true, has not, any more than the condemnation, been free from the element of political feeling. It had its roots in the successes, real and reputed, of the Prussian state system. Nevertheless, one great point was gained. The argument for state action, from whatever motives it sprang, took in German hands—as the contrary argument had already taken in English hands—scientific and philosophic forms; and a field of controversy was thus furnished outside the political arena for those who were capable of the needful detachment of spirit.

That Dr. Gardiner possessed this quality in an exceptional degree can scarcely be doubted, and what he has to say, in defence not so much of the Stuart monopolies as of the motives of those who, like Bacon, proposed and supported them, is marked by all his usual impartiality. This, together with the fact that he was known to have devoted special research to at least one important patent, gave weight to an opinion he expressed that the monopolies can scarcely, as a rule, have been prompted by fiscal motives. This conclusion seems due to an error in political psychology. It is based on the smallness of the returns derived by the Crown from the patents in a particular year, and, as far as this case goes, Mr. Price has shown that the facts were even stronger than Dr. Gardiner supposed. But surely the motives for any policy are to be discovered by an examination of intentions rather than of results, and no one who, following the path so admirably opened by Mr. Price, examines the history of a number of Tudor and Stuart patents can doubt that the raising of revenue or the payment of debt or the reward of service bulked very largely in the intentions of those who promoted them, whether as statesmen or projectors. Moreover one of the chief results of Mr. Price's investigations is to bring out clearly the fact that as the Stuart government gained in "thoroughness" the revenue yielded by the monopolies very largely increased. "At the end of the period of personal government . . . the wine licenses brought in £30,000. . . . The tobacco licenses . . . were producing £13,000. Soap yielded £30,825." These figures may seem small in the days when budgets are reckoned in hundreds of millions, but they were very considerable when hundreds of thousands only were in question.

The presence of fiscal motives is not in itself a condemnation any

more than their absence is a justification of monopoly. On the contrary, an exclusively fiscal motive is the one justification which the free-trade economist will admit. But to use monopoly in this way a government needs not only a clear head but clean and efficient hands. These conditions were not fulfilled by any of the states which were pursuing mercantilist policies in the seventeenth century. Indeed an unavowed fiscal motive such as underlay most Tudor and Stuart monopolies is directly incompatible with either clearness of head or cleanness of hands. This conclusion can be reached from *a priori* premises, but it is much more impressive and convincing as it emerges *a posteriori* from Mr. Price's judicial examination of the facts.

This is the great merit of the book before us. It comes to close quarters with the facts and sets them in the dry light of a sound business judgment. Such a cold consideration of the facts is highly necessary as a complement and a corrective to the study of mercantilist ideas, as these have been sympathetically reconstructed by modern scholars. It is like passing from one of Mr. Micawber's prospectuses to his balance sheet. Not that Mr. Price has neglected the broader aspects of his subject. The section dealing with the political history of the monopolies contains an adequate and impartial survey of the various aspects of mercantilist policy; but the main value of the book lies in the detailed studies of individual patents, in which their operations have been followed through many sources over a long period of years. Selection has of course been necessary, but the various lists of patents printed with other useful documents in the appendices will enable the student to place the monopolies specially studied in their due relation to the rest. The selected cases are those of first-rate importance and have for the most part not been adequately studied before.

The fullest and perhaps the most instructive of these studies is that on the Royal Alum Works, which covers the whole period between the reign of Elizabeth and the Restoration. The alum monopoly has been cited as a leading instance of the success of Burleigh's industrial policy—on no better ground, apparently, than is afforded by a proclamation of Charles I to the effect that the industry had by that time been brought to perfection. Yet this proclamation was issued to justify a policy of prohibition on imports and to give a fresh start to the works which were then practically suspended. The whole story, says Mr. Price,

is so continuously dismal that it would not be fair to judge from it what a reasonably businesslike government could have accomplished . . . The

king was bent on exploitation, the farmers upon plunder, and the ministers were inefficient, while the honesty of many is doubtful (p. 83). As an encouragement to domestic production the project was a failure . . . Prices were raised and the quality of the product deteriorated . . . The industry did not return to the Crown a pittance of the investment (p. 101).

Anyone who has occasion to go over the same ground will recognize that these statements are just and moderate.

Important, however, as these negative results undoubtedly are, the positive contributions made by Mr. Price to the history of public finance and of the joint-stock company (which the monopoly system brought into most undesirable connections) are even more interesting. The many-sided career of a man like Sir Arthur Ingram, who successfully combined the functions of a treasury official and king's cofferer with those of farmer of the customs and a floater of bubble companies, and who died extremely rich after having exploited generations of less fortunate projectors, is full of suggestion for the student of economic history. It is not only the state and public finance that have benefited by the gradual disentanglement of these functions. Private enterprise has gained enormously in fruitfulness by becoming private. The main effort of the seventeenth-century projector was not to increase the wealth of the community but to manipulate it for his own and the state's advantage. It was one of the happy results of that century's political achievements in England to limit this field of exploitation and to turn the ingenuity of the eighteenth-century projector to the less tempting but more profitable task of exploiting the powers of nature. This seems to be one of the many morals that may be drawn from Mr. Price's most admirable book, on the publication of which both the author and the Trustees of the Wells Prize Essay are to be heartily congratulated.

G. UNWIN.

LONDON.

*His Grace the Steward and Trial of Peers.* By L. W. VERNON HARCOURT. London and New York, Longmans, Green and Company, 1907.—xii, 500 pp.

As the title implies, this book is divided into two sections. The first takes up the history of the office of lord high steward of England from the origin of the office to the death of Thomas Plantagenet, duke of Clarence, in 1421, when it ceased to exist as an hereditary dignity. This serves as a logical introduction to part two, which deals with the modern steward in his capacity as presiding judge at the trial of peers.

Mr. Harcourt's main theses are that the steward of England in the middle ages was an official of very little importance as compared with the dapifer or seneschal of France, and that the modern procedure in the court of the lord high steward is based upon a forgery. Incidentally he touches upon several other knotty problems of mediæval history. His account of the alleged second condemnation of John by the peers of France is decidedly original. He places the trial in 1213, thus opposing both the traditional view that it immediately followed Arthur's death and Bémont's theory that it did not occur at all, (*Revue Historique*, vol. xxxii, pp. 33-72, 290-311). New light is also thrown upon the struggle between Henry III and the baronage, upon the history of the court of chivalry, upon the powers of the lord high constable and various other questions. He follows Stubbs rather than McKechnie and Adams in regarding the second *vel* in the thirty-ninth chapter of Magna Carta as a disjunctive, and therefore concludes that the chapter "requires compliance either with one condition or the other, lawful judgment of peers or the law of the land, not both" (pp. 216-225). The picture of Simon de Montfort is sketched in rather dark colors, but it is probably more true to life than that presented by Freeman, Stubbs or Prothero.

Mr. Harcourt apparently accepts the view that the English court just after the Conquest was modelled upon that of Normandy and that the latter followed pretty closely the superior court of France, but he opposes Stubbs's theory that the office of seneschal in Normandy was the origin of the English justiciarship. The argument turns largely upon the selection of William Fitz-Osbern as one of the justiciars when the Conqueror returned to Normandy in 1067. Mr. Harcourt claims that Fitz-Osbern was not steward. The whole question hangs upon the following extract from an entry in the cartulary of St. Trinité du Mont at Rouen in 1068: ". . . suggestione fidelis sui Willelmi filii Osberni dapiferi qui comes erat palatii." Our author takes this to mean that the father was dapifer, the son comes palatii.

The second essay is almost as revolutionary as the first. When a peer is accused of felony while Parliament is in session, he is tried before the House of Lords, and the court is usually, though not necessarily, presided over by a lord high steward appointed for the occasion. The steward is simply the first among equals. Any temporal peer has the right to attend and to give his vote upon all questions both of law and of fact. If Parliament is not in session the case goes to the court of the lord high steward, in which the steward is the sole judge. The peers serve only as a jury and the attendance is limited to those who

receive a special summons. Previous to 1696 this court exercised jurisdiction over cases of treason as well as those of felony. It was "a fraudulent device for the degradation of the nobility . . . intended to supersede and altogether deprive them of trial in Parliament" (pp. 442, 443). Mr. Harcourt implies that the court was instituted by Henry VII in 1499 as a means of disposing of the Earl of Warwick, and asserts that its procedure was based upon a forged report of an alleged trial of the Earl of Huntingdon at the beginning of the reign of Henry IV. The forgery was probably committed, but, if Mr. Harcourt's own account is to be trusted, it was quite unnecessary, because there was already a good precedent in the tribunal constituted by Henry V in 1415 for the trial of Lord Scrope of Masham and the Earl of Cambridge. Lord Dudley was tried before this court for felony in 1503, and the Duke of Buckingham for treason in 1521.

Mr. Harcourt has steeped himself in the personal and political history of England before 1485, he possesses the saving grace of humor, and he writes interestingly. His book is one of the most valuable contributions to the history of mediæval institutions which has appeared in recent years. At the same time, he might be less dogmatic and somewhat more familiar with the details of feudal jurisprudence. On page 391 the date 1862 should of course read 1462. The proof-reading, on the whole, however, has been unusually well done and the index is good. An important feature of the book is the publication in the original Latin of a mass of new documentary material.

W. ROY SMITH.

BRYN MAWR COLLEGE.

*Sociological Papers.* Published for the Sociological Society. Volumes II and III. London, Macmillan and Company; New York, The Macmillan Company; 1906, 1907.—312, 377 pp.

Sociology in England is still in a sort of lap-robe stage, a blanket covering many different people who are little connected except that they are journeying for the time in the same carriage. These volumes contrast strikingly with the first proceedings of the American Sociological Society, 1905. Though the two stages in the development of science thus exhibited are contemporary chronologically, logically they are far asunder. In America we see a definite group of professed sociologists unified by a common tradition and by increasing realization of a common method and intent. In England there come together a body of specialists in one or another social study, who discuss many problems, each man from his own standpoint.

Compared with the first volume of these *Papers*, some progress is evinced. There is less space given to methodology. In the second volume J. S. Stuart-Glennie is the only writer dealing with the classification of the sciences. Into the third volume this subject does not enter at all; for, though Mrs. Sidney Webb treats "Methods of Investigation," her viewpoint is practical, while "The So-called Science of Sociology" is as well written and as concretely pointed as we might expect from Mr. H. G. Wells.

The editors of the second volume classify the papers as representative of five approaches to the sociological problem: "the historical, the ethical, the psychological, the biological, the geographical." But there is nothing in the psychological group save the editor's suggestion that Professor Sadler's brief paper, "The School in some of its Relations to Social Organization and National Life," may be taken as illustrating this mode of approach. In the third volume the miscellaneous articles are upon "Religion," "The Russian Revolution," "The Problem of the Unemployed" and "Sociology as an Academic Subject." The great fields of psychosocial investigation opened up in France or America, and pursued also in Germany, are entirely without representation in these proceedings. Dr. J. H. Bridges' paper in volume ii, "Some Guiding Principles in the Philosophy of History," is an interpretation of the development of western Europe in terms of intellectual changes and generally in religious conceptions. It is almost a relief to see any other "interpretation of history" than the economic, yet the rather severe handling which Dr. Bridges' one-sided treatment received in the discussion was not unjust.

England's most definite contribution to modern sociology, since Spencer, is doubtless the work of Galton on eugenics. At the first meeting of the English Sociological Society Mr. Galton's discussion of the "improvement of the breed of man" was primarily of principles. At the second meeting the emphasis shifted to ways and means. Reviewing a great number of restrictions on marriage now existing or known to have existed among various peoples, Mr. Galton pointed out

how powerful are the various combinations of immaterial motives upon marriage selection, how they may all become hallowed by religion, accepted as custom and enforced by law. Persons who are born under their various rules live under them without any objection. They are unconscious of their restrictions, as we are unaware of the tension of the atmosphere. The subservience of civilized races to their several religious superstitions, customs, authority and the rest, is frequently as abject as that of barbarians [volume ii, page 12].

The conclusion is, of course, that the ideals of eugenics, should they come to be accepted by any large number of men and women, would exercise a restrictive influence similar to that of ideas under which society now lives, only an influence much more beneficial. The papers and discussions hardly recognize sufficiently that, compared with the rate of many other social changes, alterations in ideals of marriage are likely to be very slow. But Mr. Galton is right in deeming his principle important. Once we view marital ideals as equally subject to change and influence with political ideals or business "standards," we can enforce with new weight the need for a fuller and franker education of young men and women, especially in the vital personal problems which underlie social relationships. Given this, we may be more satisfied with Dr. Lionel Tayler's indication (volume iii) of the many natural social processes which work in the eugenic direction.

Eugenics is now a timely "science" in all the advanced countries of the world. In America the papers of Ross and Wells and the discussions before the American Sociological Society are only the scientific reflex of the "race suicide" chatter. When contrasted with the American treatments, eugenics in England is very evidently a *class* science. From the class, or what may be called the aristocratic, point of view, eugenics deals with the improvement of individuals through better marital selection and propagation. In America the problem is regarded from the standpoint of the improvement of a group as a whole through the increase of desirable, and diminution of undesirable, groups within it. The contrast is well illustrated by a comparison of Mr. Galton's papers and the following discussion in volume ii, with Dr. Alvan A. Tenney's *Social Democracy and Population*. The two points of view need not be antagonistic at bottom.

Half the last volume is given to the biological phases of sociology. How many medical men are still innocent of knowledge of well ascertained facts concerning heredity is shown this season, as before, in the discussions. Dr. Archdall Reid's paper and Professor J. Arthur Thomson's "The Sociological Appeal to Biology," are valuable articles. A different judgment will be passed by Americans upon McDougall's so-called "Practicable Eugenic Suggestion," namely, that those in government service (who have been selected by a system which insures fitness) should be accorded an increase of salary with every enlargement of the size of their families. So far as is apparent from the printed discussion, this suggestion was taken seriously.

Throughout the publications of the English society, Professor Patrick Geddes has pursued a series of suggestive studies of "Civics." He

uses the term as an equivalent for "applied sociology," a doubtful equation. At the first meeting he outlined the town's geographical interpretation. In the second volume he passes to the social standpoint; in the third, to the educational, suggesting a "civic museum" as an instrument of popular education toward effective citizenship. The plan is more than suggestive; it is illuminating, and ought to be tried on a sufficient scale to make the results of weight. The summary of Professor Geddes' interpretation of the city is worth quotation:

We may briefly define the main aspects and department of civics from the present point of view. First then, comes the study of civics as fundamentally (and ever anew) an orderly development—at once geographic, economic, and anthropologic in its nature—a survey of place, work, and folk; and these not merely or mainly as broken up into the fine dust of censuses and statistics, nor even of the three too separate sciences above named, but as a living unity, the human hive, the Town.

Corresponding to this objective and organic life we re-organize its fundamental subjective life. This is fundamentally, and ever partially, the record and reflex of the life of the hive, the Town; of all its general and particular environment and function, its family type and development; and, however overlaid by imported culture or by decayed ideals, it is fundamentally expressed in local knowledge, in craft tradition, in kinship and its associated kindness, in habits and customs, and their developments up to morals and law. . . . .

Finally and supremely arises the City proper—its individuality dependent upon the measure and form in which ideals are expressed and harmonised in social life and polity, ideas synthetised in culture, and beauty carried outwards from the study or chamber of the recluse into the world of art [volume ii, pages 91, 92].

From the investigation of the city we tend, says Professor Geddes, "toward the practice of citizenship." Civic history, making us increasingly self-conscious, helps the city to shape advisedly its own destiny. Professor Geddes' breadth of view is stimulating, but his correlation between the different phases of town life is sometimes rather abstract, and the historian too often overweighs the reformer. Papers such as this overlook the facts that the mass of people furnish not only the object of social betterment but also the means by which it is to be accomplished, and that to such people, especially in our day, condition means more than tradition.

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*The Economy of Happiness.* By JAMES MACKAYE, Boston. Little, Brown and Company, 1906.—xv, 533 pp.

It is obviously impossible, in a brief review, to do justice to an author's thought which he has compacted into book form at the expenditure of much time and infinite pains. The impossibility becomes even more obvious when the volume is as big in extent and content as is Mr. Mackaye's. The author divides his work into three parts, Book i is entitled, "The Principles of Common Sense," books ii and iii deal with the "Technology of Happiness." He declares war upon commercialism and its philosophy, as championed by Mill and his followers, and sets himself the task of writing a new constitution for industrial society, in which *happiness* instead of wealth shall be recognized as the goal of national activity. The first two books are taken up mainly with the giving of precision to definitions and terms, and with criticisms of the present forms of industrial society. His criticisms are not new but they are stated in a scientific form which gives them a new value. At the same time his vigorous, clear-cut literary style holds interest and carries conviction.

It may be objected that Mr. Mackaye is too materialistic in his view of life; that the object of living is not necessarily happiness; that happiness even is not the product of material goods; that his hedonistic standard for measuring happiness is a false standard, because it allows nothing for spiritual enjoyment; that he is wrong in assuming that for the working man the joy of living is confined to the hours of consumption, the dinner hour being the high-water mark of his happiness; that he is wrong in assuming that the hours of sleep are negative hours giving neither pleasure nor pain. For every one of these objections, Mr. Mackaye has an answer either expressed or implied. If the end and aim of life be not happiness, what is its purpose? Certainly Mr. Mackaye's philosophy is worth as much as any yet proposed. Nor does he confuse happiness with material goods. He leaves that for the dollar-hunting business man and the capitalistic economist. He is perfectly well aware that man obtains a large proportion of his enjoyment from psychic gratifications which have not been derived from material goods. He does assert that for the great majority of laboring men these higher forms of intellectual goods have no value at all—no existence in fact, because the laboring man is sufficiently occupied with the task of getting enough to eat and to wear. However, Mr. Mackaye's condemnation of the present régime is too sweeping. It is impossible to determine accurately whether there is a surplus of pleasure

or of pain in our society to-day. His method of getting at the fact by *imagining* what the average New Yorker would answer to the question, Would you be willing to live your life again? is far from convincing. It is quite conceivable that New York is manufacturing happiness at a high rate of speed. It may be even that the East Side produces a surplus of happiness.

But it is not necessary to show that there is actually a surplus of unhappiness in order to condemn the present organization of society. All that is required is to show that the output of happiness falls short of the attainable happiness under a different organization. Undoubtedly, with a more equable distribution of wealth, there would result a vast increase of the sum-total of happiness. How to attain this greater equality of wealth with its increase of happiness, without impairing or destroying the efficiency of society as a wealth-creating organism, has been the question. This is the rock upon which socialists have invariably made shipwreck. The best that any of them has been able to do is to assert that under the beneficent operations of socialism human nature will be so transformed that men will jostle each other in their eagerness to work for the common good. Besides, we are told that nobody will have to work more than three or four hours per day.

It is not until the thirteenth chapter of book iii that Mr. Mackaye gets to the constructive part of his work. He there explains "pantocracy," which is a plan to combine the advantages of the competitive system with those of the system of public monopoly. Individual self-interest is retained as the motive force of industrial society. This is done by giving rewards to the directors of industry in accordance with the efficiency of their direction—efficiency being measured by the labor time saved in producing a unit of commodity. Thus the interests of the workers and directors are united, both being interested in shortening the working time. The directors have nothing to do with the wages paid to workmen. Some of the benefits of cheapened labor cost will be distributed throughout society by lowering the prices of commodities. Wages will thus be indirectly raised. Production will be regulated by the bureau of distribution. To the individualist this method of determining what and how much to produce will appear artificial and clumsy. Only competitive production appears to him "natural." In this way improvements in quality and changes in styles are made possible. The vast majority of men have no notion of what they want. They possess merely potential likes and dislikes. It is the function of the manufacturer to discover these potentialities. If he is lucky enough to hit the potential likes of society, he makes a fortune

and poses as the benefactor of mankind. If he misses, he loses, not necessarily his own fortune, but usually, thanks to the benefits of corporate organization, somebody else's fortune. Only by this method of experimentation are changes in styles and improvements in consumption-goods possible. The sufficient answer to these objections is that such "improvements" and changes in styles are wholly unnecessary. They have their foundation in class distinctions and they serve no useful purpose. Mr. Mackaye does not insist that class feeling would disappear with the advent of pantocracy, but there can be no doubt that the more radical class distinctions would disappear.

Mr. Mackaye seems needlessly severe in his condemnation of the present régime. The system which has brought the race from economic savagery up to the present state of barbarism tempered by monopoly, can not be wholly bad. The hedonistic ideal of happiness could never have been conceived but for the capitalistic system. If the big fish had not eaten the little fish, the joys of a fish diet would never have been discovered. Incidentally the competitive system has induced men to make a lot of improvements which the socialist is willing enough to retain in his regenerated society.

The least convincing portion of Mr. Mackaye's work is chapter xiv of book iii, where he endeavors to tell how his system of pantocracy can be put into operation. After showing that pantocracy must be protected against the importation of foreign laborers or the products of foreign labor, he advocates the setting-up of his system in competition with private industry. Surely if the foreign capitalist could destroy pantocratic industry by exploiting the laborers, the native capitalist could do so. If ever pantocracy enters an industry, it must enter it as a monopoly. And how shall we apply it to those industries which supply only a portion of the home demand for a commodity? These constitute the great majority of industries. When we think of all these complexities and difficulties, the day of the industrial millennium seems still afar off.

Mr. Mackaye evidently derives much happiness from emptying the vials of his wrath upon the head of the economist, quite regardless of the amount of unhappiness he must thereby cause. He is equally severe in his attitude towards him who criticizes pantocracy on the ground that it is "impractical." Nevertheless the writer ventures to assert that this system, so perfect in its theoretical completeness, is totally impractical because it assumes that men are rational beings, striving ever after the greatest utility, and influenced only by appeals to the plainest of plain common sense. Most men derive an unbelievable

amount of fun from merely living, oftentimes under conditions that would be anything but joyous to one who had been educated differently. Who will venture to say that the poor workman with neither goods nor leisure is less happy than the man of wealth who has an abundance of goods and leisure for their enjoyment? Not until human nature has been modified need we expect a philosophy of common sense to become popular; and not until a philosophy of common sense has become generally accepted need we look for any radical change in human nature.

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*Boas Anniversary Volume.* Anthropological Papers written in honor of Franz Boas. New York, G. E. Stechert and Company, 1906.—xix, 559 pp.

The articles by American and European contributors which make up the contents of this bulky but handsome volume were written to celebrate the twenty-fifth anniversary of Professor Boas's doctorate. A scientific career which has done so much by precept and example to advance the cause of anthropology thus receives fitting and adequate commemoration.

The forty-five papers in this collection cover a wide range and include original investigations in physical anthropology, philology, general anthropology and ethnology, and American, European and Asiatic archaeology. A few articles of importance to anthropologists and sociologists alike may be briefly noted. A short but carefully executed study of "North African Jews," by Maurice Fishberg, strengthens the conclusions previously advanced by the author regarding the East European Jews.

Contrary to the generally accepted theory that they have maintained their racial purity for centuries, research by modern anthropological methods has shown that the physical type of the Jews bears a striking resemblance to the ethnic types encountered in the indigenous races and peoples among whom they happen to live. [p. 55.]

The paper by Dr. W. H. Holmes on the "Decorative Art of the Aborigines of North America" is a convenient summary of the subject by an acknowledged authority. A. F. Bandelier's "La Danse des 'Sicuri' des Indiens Aymará de la Bolivie" describes at length a South American ceremony which, though relatively modern in its present form, is clearly the outgrowth of a more primitive dramatic ritual. In her ac-

count of the "Astronomical Methods of the Ancient Mexicans," Miss Nuttall shows that in Mexico, as in Babylonia, the temples were used for systematic and exact observations of the movements of the heavenly bodies. Writing on "A Vast Neglected Field for Archæological Research," Mr. H. I. Smith emphasizes the necessity of exploration in the middle west. The prehistoric ethnology of this region is as yet practically unknown. Ernst Richard's article on the "Scandinavian Theory of Indo-European Origins," principally a resume of Hirt's recent work, *Die Indogermanen* (Strassburg, 1905), revives old philological arguments and introduces some new ones from anthropology and archæology to support the theory of an original Indo-European race. Southern Scandinavia, Jutland and the countries south of the Baltic "form the locality where the people who first spoke an Indo-European language developed their racial peculiarities, or, at least, were living before they branched out to spread over Europe and Asia" (p. 377). The search for Aryan origins possesses great fascinations and, in spite of the *caveat* of anthropologists who deny the existence of Aryan racial unity altogether, still claims the energies of some serious investigators.

Although many of the studies of this volume appeal primarily to the technical anthropologist, there are several which should not escape the attention of investigators in the fields of primitive sociology and religion. Of these one of the most important is the paper entitled "A Reconstruction of the Theory of Social Organization." Dr. John R. Swanton, the author, voices the growing dissidence of American anthropologists against a hasty application of data from the Australian and other primitive fields to the interpretation of North American sociology. He levels a direct attack upon the theory of maternal organization developed at length in Morgan's *Ancient Society*. Dr. Swanton shows that north of Mexico many more Indian tribes than Morgan reckoned to-day possess a paternal organization, and that a very large number have no clans or true exogamous divisions at all. Moreover, in opposition to Morgan's view that the maternal clan represents a more primitive condition, Dr. Swanton points out that some of the tribes most advanced in culture, such as the Iroquois, the agricultural tribes of the southeast, the Pueblo and Navajo of the southwest and the Haida and Tsinshian on the Pacific coast possess the maternal organization. With other American students, Dr. Swanton is inclined to regard the questions of exogamy and totemism as separate and distinct. Totemism he considers primarily a religious phenomenon. Exogamous practices arise not out of totemic beliefs, but from economic and social conditions. Students of these complicated problems will welcome the author's original researches in this field.

For investigators of the economic interpretation of religion several papers furnish data of considerable interest. Thus Bandelier, in a contribution already referred to, discloses the existence among the Aymara of three esoteric or magical societies, known as "healers," "hunters" and "warriors," whose members have charge of man's relations to the supernatural. These societies are similar in organization to the fraternities found among many North American tribes. Like the latter also their functions embrace rain-making and the supervision of hunting and fishing. "*Là où la pêche est plus abondante que la chasse, donc plus importante pour la vie, le groupe des chasseurs est dominé par celui des pêcheurs*" (p. 277). Jochelson's study of the "Kumiss Festivals of the Yakut" brings out in highly suggestive fashion the influence of horse-breeding among this Siberian tribe. In the life of the Yakut the horse is the central feature; besides the ordinary use of horses as domestic animals, their skins are employed for clothing, their flesh for food, and from fermented mares' milk is formed the stimulating and nutritious beverage known as kumiss. Under these circumstances it is not surprising to find the horse highly revered and even the object of a special cult. The most important religious festival of the Yakut was connected with the preparation and use of kumiss.

Sternberg's account of the "Inau Cult of the Ainu" lays stress upon the fact that leading Ainu gods are zoölogical creations—beasts, fish, and sea-animals who supply the principal means of subsistence and upon whom the welfare of the Ainu depends. Such gods are approached and their gifts secured through the mediation of the "Inau." These are ceremonial objects, commonly small sticks, carved in rude representation of a human figure and cut at various points into shavings. The Ainu regard them as living mediators between gods and men, "endowed with the faculty of conveying rapidly, eloquently and efficiently the wants of man to the gods. . . . Their power lies in their numerous *longues* (shavings), which increase the suasive power of their eloquence to an extraordinary degree" (pp. 434, 436). The Inau themselves can hardly be classed as deities, fetishes or idols.

From the foregoing very inadequate notice some idea may perhaps be derived of the variety and interest afforded by the papers in this volume. Students of anthropology will welcome the elaborate bibliography of Professor Boas with which the work concludes.

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*Die ökonomische Entwicklung Europas bis zum Beginn der kapitalistischen Wirtschaftsform.* By MAXIME KOWALEWSKY. Volume III: *Englische, deutsche, italienische und spanische Wirtschaftsverfassung in der zweiten Hälfte des Mittelalters.* Berlin, Prager, 1905.—501 pp.

At length we have the third instalment of the German version of Professor Kowalewsky's elaborate survey of the economic development of Europe. The first volume, it will be remembered, dealt with the origin of property in land, and the second, with the growth of feudal arrangements. But the title of the present volume is somewhat misleading; for, although it professes to describe the organization of agriculture in the second half of the middle ages, it is, as a matter of fact, chiefly concerned with the twelfth and thirteenth centuries. Four years have elapsed since Professor Kowalewsky's second volume was reviewed in this QUARTERLY, and the movement of research in England alone, during this period, has already rendered certain parts of the present volume obsolete. It appears to have been impossible to take account of Mr. Seebohm's books on *Tribal Custom*; and Professor Vinogradoff's *Origin of the Manor* and Mr. Chadwick's revolutionary studies on English *origines* have, of course, come too late. Still the delay in the publication of the translation of Professor Kowalewsky's work has certain compensations. The task of rendering into German the Russian original has passed from the not very skilful hands of M. Motzkin, who was responsible for volumes i and ii, to those of several eminently competent German gentlemen who have produced a smooth, lucid and presumably accurate version. At all events the publisher professes himself sensible of the justice of the criticisms directed against the translation of the earlier volumes and has himself compared the present version with the original, besides submitting it to the general supervision of the author. The improvement is very striking, although there are still some defects of which we shall speak presently. The usefulness of the work is much impaired by the lack of an index, and the promise of a general index on the completion of the German version is of small comfort in view of the rate at which the publication is proceeding.

Although Professor Kowalewsky describes his book as a survey of the economic development of Europe, it is, as a matter of fact, both more and less than that. The complete omission of the revival of commerce and of the resulting development of industry may, perhaps, find a certain justification in the limitations which the author seems to have imposed upon himself; but as the work progresses it reveals itself as an

elaborate pamphlet intended to support the thesis of primitive liberty. In Professor Kowalewsky's view, indeed, Freedom sat of old not on the heights alone, but in every valley and plain as well. To secure and elucidate this doctrine—he admits that it is not susceptible of proof—is our author's chief purpose in the present as it was in the earlier volumes. He devotes, however, a good deal of space to illustrating the break-up of the system of *prædial serfdom* as a result of the increase of population and the consequent rise in the value of land. The work is divided into four parts, devoted respectively to the consideration of English, German, Italian and Spanish conditions. France and northern Italy, it will be remembered, were included in volume ii; accordingly, the Italian section of the present volume concerns itself chiefly with central Italy and Sicily. In treating Germany, Professor Kowalewsky has omitted the two principal German states of the present day, Prussia and Austria, confining himself to the Rhine country and the adjacent regions where no strong foreign influence was ever felt. On the same principle he has, in the last chapter of the volume, restricted himself to Catalonia and Roussillon, the old Spanish Mark of the Carolingian Empire.

We may turn now to consider the main points in Professor Kowalewsky's argument for primitive freedom, deferring, for the moment, what may turn out to be a more difficult and important problem—the question, namely, of what, in effect, primitive freedom may mean. Our author deals first with the inferences to be drawn from the use which unfree communities were authorized to make of the non-arable lands, meadows, pasture, forest, waste and so on. Although it is true, he admits, that landlords might and did exact renders and services in return for the enjoyment of these advantages, the use of the commons cannot, nevertheless, be regarded as deriving from an original concession on the part of a proprietor; for the landlord was unable to diminish, alienate or enclose lands subject to these rights without previously obtaining the consent of the community. The traditions which secured the unfree peasants in the enjoyment of these advantages must be understood as pointing back of the manorial lord to an originally free community.

Then it is contended that the open-field system of agriculture, in which co-aration with a heavy plough drawn by a team of eight oxen is the dominant factor, is a relatively late development. The arrangement of intermixed strips in the open fields and the system of extensive agriculture practised under that arrangement are not, as Seeböhm contended, based upon a plan of co-aration according to which land was



allotted to the villagers in proportion to their contribution to the great plough team. To support this view it was necessary to show that the heavy plough and the eight-ox team were of comparatively late introduction, and were connected with the progress of uniformity in manorial arrangements and with the movement toward a more intensive form of agriculture. The heavy plough, indeed, is the demesne plough drawn by the peasants' beasts, but the system of co-aration is worked on behalf of the landlord. This change is marked by the use of the terms *carucate* and *bovate*, representing an actual measure of land, instead of the elder *hide* and *virgate*, which are rather rateable units. At an earlier period the land was worked by a light peasant plough drawn by two or, at most, four oxen, and the demesne, consisting of scattered strips in the open fields, was ploughed by the peasants in the same way as their own shares. The unit of measurement, moreover, was proportioned to the capacity of the small team. For France and England, at least, our author appears to have made out his case; he brings evidence of the use of the light plough and the land measurement adjusted to it and raises a strong presumption that the eight-ox plough was introduced comparatively late into Frankland and carried thence into England by the Normans. From all this, Professor Kowalewsky concludes that the open-field system, with its intermixed strips of arable land, its normal uniform holding and its common rights appurtenant to such holdings, must be understood as originally designed to maintain equality and facilitate coöperation among the members of a free community.

Finally an analysis of the later manorial population reveals to our author a numerous class of persons whose original freedom is witnessed by the fact that they perform no services. Their responsibility to the manorial lord from whom they receive protection is confined, as for example in the case of the *Wachszinsigen* or *cerocensuales* of many German estates, to a render in money or kind. Most of these arguments are familiar and have already been presented by many writers with varying degrees of ability. In so far as they make against the theory of Roman or servile origins, they appear to us valid. But to say that they will avail to support the old-fashioned Germanist views of primitive democracy is quite another thing. Professor Kowalewsky undertakes to examine the question solely as an economist. But to do this is to beg certain questions of capital importance. For example, he speaks with cheerful confidence of the ordinary freeman, the *Gemein-freie*; but what meaning are we to attribute to this term? Is it the hero of Maurer and Kemble that is brought before us again? Is it the free German, dear to the hearts of Freeman and Green, who never

really recovered the primitive rights which he had lost after his migration to England until the passage of the Reform Bill of 1832? Surely we have dreamed that dream out; and whether we follow Heck or Brunner, whether we adopt Mr. Seeböhm's dependent tribesman or Mr. Chadwick's mysteriously conquered Saxon, we must, if we are to discuss the matter intelligibly, define the status and condition of the ordinary freeman. Here, then, is the point: an examination of the available evidence leads us back to a free or lordless community—*pace* Professor Ashley—which, by processes now tolerably clear, was transformed into a dependent manorial community. Now the elucidation of these processes, valuable and important as it is, still leaves the problem of the character of the original community, the nature, that is, of its freedom, unsolved. Here Professor Maitland's brilliant contribution fell short; for his formula of automatism and reality spoke to the question of the process by which, leaving untouched the more difficult problem of the thing out of which. If we understand Professor Kowalewsky rightly, he would hold to some such modification of the German mark-theory as was proposed by Meitzen, omitting, however, the periodic redistribution of land, against which view he brings some strong arguments in the present volume. He appears to be no more afraid of a primitive land-owning community, a conception intolerable to the juristic mind of Professor Maitland, than is his fellow-countryman Professor Vinogradoff. But even if this obstacle be overcome, serious difficulties remain. What can primitive freedom mean? Can freedom as we understand it exist under the iron tyranny of custom? Surely the old opposition of democracy and servility, when applied to a society organized upon a basis of kinship, has lost its significance. The study of tribal organization that has been carried on during the past ten years or more, if it has not yet succeeded in solving the problem, has at least made it necessary to attribute new values to the terms employed and to transfer the discussion to another place. Freedom, or rather non-servility, under tribal custom takes on a new aspect in the light of recent research in anthropology.<sup>1</sup>

This, then, is our chief criticism upon what seems to be the main point of Professor Kowalewsky's book. We agree with him that an examination of the evidence leaves the balance of probability on the side of primitive freedom, but we are unable to accept his conception of the character of the primitive community and of the nature of its freedom.

<sup>1</sup> Cf., for example, Dr. J. G. Frazer's lectures on the Origin of Kingship.

Still, the case is not closed, for all the evidence is not yet in. Such a general survey as Professor Kowalewsky has laid before us is necessarily provisional. In respect to particular regions or countries, he brings evidence in support of his contention, but he does not (indeed no man could) examine all the evidence in existence. And so the book is really a bulky *plaidoyer* rather than an exhaustive and impartial investigation. It contains, on the other hand, a number of fresh and interesting things. For example, the chapter on Spanish conditions, although it is based largely on Brutails' work, has some striking and original pages on slavery in northern Spain and the Balearic Islands during the later middle ages. Then the same subject is very well illustrated in the section devoted to Sicily. Again, he believes that he has established the existence of the *jus primae noctis* in Catalonia, but Schmidt, who, as most people think, has settled this whole question, had seen our author's evidence and put another interpretation upon it.

If this volume is not disfigured by the numerous slips and material errors that marred its predecessors, it still falls very far short of perfection. The printer and the German editors must evidently accept the responsibility for a certain number of these blemishes. Also such slips as "Berwickshire" for Berks (p. 35), "Archbishop Lafrank" (p. 38), "Glocester" (p. 50), "Echequer" (p. 125), "Maddox" (p. 185), we must judge tenderly, having regard to the multiple refraction of English names and terms through one Russian and three German minds. But when these allowances have been made there still remain signs of a carelessness which is sometimes very gross. "Green's *Norman Conquest*" (p. 39) and the attribution of the *Dialogus* to the reign of Henry I (p. 80) are bad enough, but what are we to make of the amazing statement that Berkshire and Wiltshire, owing to their situation in the northeastern part of England, were naturally subjected to Danish influence (p. 61)? After this, the assignment (p. 446) of a charter to the forty-sixth regnal year of Philip Augustus (the Greek Kalends indeed!) and the transformation of the familiar phrase of Tacitus into "*acra per annos mutant*" (p. 214) appear natural enough. These defects should not be passed over in silence, although they do not affect the argument except in one case. Still, when all has been said, the book remains a fresh, vigorous and interesting treatment of the subject, valuable for its large scope and the possibility which it affords for a rapid comparison of agrarian conditions in western and southern Europe throughout a considerable period of time.

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*Beiträge zur Wirtschafts- und Sozialgeschichte der Reichsstadt Frankfurt.* By FRIEDRICH BOTHE. Leipzig, Duncker und Humblot, 1906.—ix, 172 pp.

*Die Entwicklung der direkten Besteuerung in der Reichsstadt Frankfurt bis zur Revolution 1612–1614.* By FRIEDRICH BOTHE. (Schmoller und Sering, Staats- und sozialwissenschaftliche Forschungen, Band xxvi, zweiter Theil.) Leipzig, Duncker und Humblot, 1906.—xliii, 304, 215 pp.

These books have the common purpose of laying the foundations for a proper understanding of the character and historical significance of the great popular uprising of 1612–1614 in the city of Frankfurt. The title of each volume is indicative of its central aim; but for the latter, a broader designation indicative not merely of its primary purpose but also of its broader viewpoint, would be quite in place; for the author's attempt to estimate in how far a growing burden of taxation may be accounted responsible for the uprising of 1612, even though it leads into an exhaustive study of the methods and results of taxation in Frankfurt during the course of the sixteenth century, is really only the central theme about which whole series of facts relating to the general economic history of Frankfurt are grouped. Brief reference to the author's conclusions will illustrate the inevitableness of this broader treatment. The tax situation in 1612 was the immediate, inciting cause of the outbreak; but, inasmuch as the burden of a tax is a relative thing, the oppressive weight of taxation in this instance was relative to the peculiar economic situation at the end of the sixteenth century. The maleficent influence of western neighbors, particularly the Low Countries, must be held responsible at bottom for this unhealthy condition which characterized not only Frankfurt, but all of Germany, decades before the outbreak of the 'Thirty Years' War. If this well-substantiated interpretation is an accurate one, the Fettmilch uprising must be regarded as of more than local historical significance and interest. It must be viewed as an illustration and a symptom of economic disorders existing in many other German cities during that era, the unavoidable preliminaries of the widespread conflict that followed some two decades thereafter. The author interestingly points out many parallels with modern conditions which, to his mind, not only illustrate his view of the importance of a study of the social constitution of the cities of the late middle ages and the early modern period, as a key to the understanding of present economic conditions, but at

the same time contain a note of warning. The influence of the process of industrialization on the economic structure of the population, the trend away from agricultural activity, the rise in price of the necessities of life (especially in the cases of dwellings and of meat), the outstripping of small-scale industry by capitalistic large-scale production, the competition of the cheap labor of women and children, the struggles of masters and workers over the control and direction of industry, the tendency of workers to profit by striking on a rising market, the inciting and threatening of the more docile by the more restless workers, the rise of a materialistic mode of thought, the disappearance of good-breeding and of the proprieties of life with the sundering of the bonds of filial affection and authority—all these suggest parallels with modern conditions the significance of which cannot be carelessly thrust aside. Similarly, in the narrower field of taxation, Frankfurt's system was in its main lines not merely typical of practices widely prevailing in the sixteenth century, but replete as well with correspondences to present-day Prussian tax arrangements (as in the *Wehrsteuer*, the personal declaration, the heavy penalty for fraud, *etc.*). The painstaking care of the author in breaking new ground and the richness of the archive materials in which he worked make the larger volume worthy of a high place in the notable series of which it forms a part. It is valuable not only for its exhaustiveness as a chapter in the history of taxation, but also for its interest as an essay in the economic interpretation of history.

ROSWELL C. MCCREA.

THE SCHOOL OF PHILANTHROPY, NEW YORK.

*The Greatness and Decline of Rome.* By G. FERRERO.

Translated by Alfred E. Zimmern. New York, G. P. Putnam's Sons; London, William Heineman, 1907.—Two volumes; viii, 328 and vi, 389 pp.

These two volumes cover the period from the death of Sulla to the assassination of Caesar, and include by way of introduction a brief summary of earlier Roman history in five chapters. The intention of the author, in his own words, is to present a survey of

the entire course of one of the most remarkable societies in history, from its birth to its death—from the far-distant morning when a small clan of peasants and shepherds felled the forests on the Palatine to raise altars to its tribal deities, down to the tragic hour in which the sun of Graeco-Italian civilization set over the deserted fields, the abandoned cities, the homeless, ignorant and brutalized peoples of Latin Europe.

From the scope of these volumes and of others which have not yet appeared in English we must conclude that the work is to be of enormous dimensions—literally a library of Roman history. Such a task can appear possible to no one but a man with a ready style, a talent for recombining the material collected by scholars and a willingness to forego the satisfaction of a personal examination of sources. These qualities the author seems to possess in a high degree.

In his preface he sets forth a theory of his subject, which he trusts he has been able to demonstrate :

that the Roman world-conquest . . . was in reality the effect, remarkable, indeed, for its special conditions of place and time, of an internal transformation which is continually being re-enacted in the history of societies on a larger or smaller scale, promoted by the same causes and with the same resultant confusion and suffering—the growth of a nationalist and industrial democracy on the ruins of a federation of agricultural aristocracies.

In the first place, however, it is extremely doubtful whether the conquest of the Mediterranean world by Rome can be so neatly summed up in economic terms. The author's line of thought is simply an exaggeration of a well-known tendency in the present writing of history. Then, again, the internal transformation of which he speaks, so far as it took place, was an effect rather than the cause of the conquest ; we can learn even from Ferrero that nationalism and industrial democracy developed in Italy after the conquest had nearly been achieved.

The author aims at an annalistic arrangement of his material. The many-sided conditions of an age are subordinated to the march of public events. At short intervals the narrative is interrupted by digressions on economic, social, intellectual, moral or other phases of contemporary life. Perhaps it is well that one history of Rome should be written in this way, with a view to illuminating the actions and policy of public men ; but the method has its limitations and will not produce the best type of history ; for the life of the people as a whole is far more important than individual happenings, and should accordingly be studied for its own sake.

A serious defect in the work is the lack of accuracy. It is not true that the urban quaestors had power "to prosecute all who were accused of capital offences" (I, p. 10), or that the aedileship was an essential step in the career of honors (p. 160). The agrarian law of Tiberius Gracchus was not "drawn up for him by two Greek experts" (p. 46). Plutarch, the authority cited, speaks of these Greek friends (who in

fact were not experts in agrarian legislation) only as giving encouragement, and states that Tiberius himself drew up the law with the advice of Crassus, Scævola and Claudius. The *medimnus* is equivalent, not to fifteen bushels (II, p. 321), but to about a bushel and a half. These are illustrations of the author's loose way of treating facts. Much is questionable in his general pictures of a given period. It is difficult to believe, for instance, in the existence of an idyllic life throughout Italy in the year of Caesar's consulship, when even "the new slave immigrants contentedly cultivated the vine or the olive, or bred animals for the stable or transport, under the direction of a Greek or Oriental bailiff" (I, p. 311).

It is characteristic of the author to give a novel appearance to a period or a movement of history by a shift of emphasis. As an illustration may be cited the case of Lucullus, whom historians generally credit with a fair degree of military ability. In the opinion of Ferrero his brilliant personal initiative was epoch-making (I, p. 151); he showed himself "a worthy rival or successor to Alexander" (p. 178); "we may perhaps justly define him as the Napoleon of the last century of the Republic" (p. 199); Pompey and Caesar were his pupils (p. 200).

The central figure in the whole period is necessarily Caesar. Whereas Mommsen represented him throughout his career as moving steadily toward the goal he had set for himself in early life, Ferrero pictures him as a man more exposed than others to the buffetings of fortune, continually forced by circumstances to change his policy and his ideals, "the blind instrument of destiny, moulding the whole future course of European history." He entered upon his Gallic command in "a foolhardy mood" (II, p. 9), blundered constantly in diplomacy and in military affairs, always to recover lost ground by brilliant recklessness. His "*De Bello Gallico*," in the opinion of our author, is little more than a tissue of misrepresentations designed to hide the mistakes and brutalities of the proconsul, and yet so skillfully conceived and presented as to baffle refutation (p. 143).

The work is intensely interesting. It is composed in a magnificent style, which can be discovered in the present version notwithstanding the wretched translation and the slovenly typography. Although a majority of the author's positions may be found untenable, there will probably remain some fruitful suggestions, to improve though not to revolutionize the future treatment of Roman history. G. W. B.

*The Return to the Land.* By JULES MÉLINE. Preface by JUSTIN MCCARTHY. New York, E. P. Dutton and Company, 1907. —xxv, 240 pp.

This book is a translation of *Le Retour à la terre*, published in 1905. In the first four chapters (originally entitled *La Surproduction industrielle*) the author traces the rapid growth of industry in various countries, and concludes that this mad race for industrial supremacy has brought about over-production, crowded the cities with idle men and women and depopulated the country districts. The remaining six chapters, entitled respectively, "The Return to the Land," "State Aid," "Village Life," "Artisans and Peasants," "The Present Condition of Agriculture," "The Colonies," "Agrarian Socialism," he devotes to a discussion of the phenomena which give the book its title.

It is a fascinating title, and Mr. McCarthy's glowing preface leads one to expect not only entertainment but enlightenment, while the eminence and charming personality of its author prejudices the reviewer in the book's favor. It is, therefore, with regret that he records his disappointment. While many things that are true are told in a charming manner, so many things are told that are not true, that one seeking information is likely to be led astray. The book is that of a rhapsodist rather than of a scientific thinker. There is lack of perspective, and the author seems to have no consistent economic theory on which to base his arguments.

He insists that owing to over-production, industry is on the decline, while agriculture is on the rise. Yet at the time the translator was putting these words into English, manufacturers were scouring the world for iron, many mills were closing down for want of raw material, and others, with orders booked for months ahead, were working day and night to satisfy the demand for manufactured articles; while on the other hand southern agricultural France was in a state of revolt as a result of over-production of wine, and in England, the United States and Germany farmers were organizing to limit their output.

An avowed protectionist, M. Méline laments that the high tariff on raw material has crippled French manufacture; but he overlooks the fact that the high tax on foreign feed-stuffs stands in the way of the development of the French dairy industry.

The author tells us that the rural population of France has declined one-half since 1862, and suggests remedies which are quite in keeping with the tone of the book. He cites measures taken by other countries, but usually fails to discover how far they have been effective. For ex-



ample, only one unacquainted with the facts would attribute any far-reaching social effects to the English small-holdings act or to the home-stead exemption acts of our states.

Due attention is given to the development of coöperation among French farmers and to the important activity of the *syndicats*, but no mention is made of the splendid work of agricultural enlightenment carried on through the departmental professors of the present government. The author advocates that the country people should be educated to appreciate "the beauties of nature and the advantages of life in the fields," while in another place he tells us that "the agriculturalist will always be obliged to rise before dawn and work till after sunset."

Clinging to ideals that have passed away, the author fails to understand that one can no longer damn a cause by calling it socialistic. His treatment of the strike of agricultural laborers in the south of France is the case in point. He condemns the strikers and accuses them of lack of patriotism because they revolt against their frightful conditions. He fails to see that it is the beginning of new things, and that while the socialists seem to have had little to do with the uprising, it would have been no discredit to them if they had.

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## BOOK NOTES

Two more volumes have been added to the *Political History of England*, which is being issued under the editorship of Dr. William Hunt. They relate to the periods, 1485-1547 and 1603-1660, and their authors are H. A. L. Fisher and F. C. Montague (New York, Longmans, Green and Company, 1906, 1907; 518, 514 pp.). They fully maintain the reputation of the series for solidity and conservatism. The limitation, to about half a century each, of the periods treated in the volumes which relate to modern times makes possible the introduction of considerable detail and a rather full discussion of leading events and personalities. The style in both is clear and concise; the point of view is political. In the case of the early Tudors there is much opportunity for originality of treatment, and Mr. Fisher has fully utilized it; especially in that part of the volume which treats of Henry VIII he shows in every chapter independent and well-balanced judgments, the result of a fresh reading of the sources. In his treatment of the motives from which proceeded the divorce, Mr. Fisher takes issue with Gardiner and returns to substantially the view of Froude. The task of Mr. Montague has been in some respects more difficult. It was not easy, after so short an interval, to follow Gardiner in the period of the early Stuarts and the Puritan Revolution. The writer must necessarily sum up existing knowledge, and for that he must largely depend upon Gardiner's work. But the valuable critical bibliography at the close of the volume, as well as manifold passages in the text itself, reveal the fact that the book is more than an outline of Gardiner. In several important cases, as those of Bacon and Strafford, Mr. Montague expresses judgments at which Gardiner either did not arrive or which he did not allow himself to utter. As indicative of the machine-made quality which inheres in all the volumes of this series, the fact should be noted that the index is defective in many particulars, not even the names Thomas Wentworth or Strafford appearing in it at all.

Dr. C. D. Allin's volume on *The Early Federation Movement in Australia* (Kingston, Ontario, British Whig Company, 1907; x, 431 pp.) is a full survey of efforts to federate the Australian colonies during the first half of the nineteenth century. Following an introduction on colonial beginnings in Australia and Tasmania, there are chapters on the germ of federation, *i. e.*, the economic policy, on the work of Earl

Grey, the first experiments with the office of governor general, the period of constitutional committees and that of parliamentary reports. The work will prove illuminating to those who have regarded federation as a recent idea and who are unaware of the long and arduous work which precedes any considerable political achievement. Dr. Allin has marshaled the results of his thorough researches with mature and sober judgment, while the vigor of his style lends color and charm to a theme naturally lacking in these qualities.

The first and second volumes of Professor H. A. Cushing's *Writings of Samuel Adams* were reviewed in this journal a year ago (xxii, 143). The third volume (New York, G. P. Putnam's Sons, 1907; 419 pp.) covers the period between March, 1773, and the close of 1777. At its beginning Adams was interested in the establishment of committees of correspondence in Massachusetts, as a means of opposing the payment of salaries to the judges out of royal revenue, and in the extension of such committees through the colonies. The episode of the Hutchinson letters, the "tea party," and the early experiences of Boston under the port act find a place in the pages of the volume. Many examples are given of the letters which Adams drafted for the committee of correspondence. Many are in acknowledgment of donations received by Boston while blockaded by the British. The last half of the volume is filled chiefly with letters from Adams while he was a member of the Congress at Philadelphia and Baltimore. They reveal very little of importance about the doings of that body and nothing in reference to its personnel. We are told that independence should have been declared nine months earlier than it was. The active patriotism of New England is sharply contrasted with the sluggishness of New Jersey and of Pennsylvania in 1776. Later, the Fabian policy of Washington is criticised, Schuyler is castigated and Gates is praised in the warmest terms. These letters will in no respect increase the reader's liking for the man who wrote them. They almost totally lack the human element which lends such interest to the correspondence of John Adams.

In a volume entitled *Samuel Freeman Miller* (The State Historical Society of Iowa, Iowa City, 1907; ix, 217 pp.) Charles Noble Gregory has made a useful contribution to our knowledge concerning the lives and public activities of the justices of the Supreme Court of the United States. The book forms part of the *Iowa Biographical Series* edited by Benjamin F. Shambaugh. Less than one third of the volume is devoted to the career of Mr. Justice Miller. The bulk of it is taken up with notes and references and with four appendices containing var-

ious addresses delivered by that eminent jurist and a calendar of opinions rendered by him while on the Supreme Court bench.

An excellent example of the kind of research we are learning to expect from French socialist historians is the short *Histoire de la Commune* by Georges Bourgin, (Cornély, Paris, 1907 ; 192 pp.), which forms numbers 41 and 42 of the series known as the *Bibliothèque socialiste*. It is written directly from the sources, gives references for every statement, avoids digressions, wastes no rhetoric over its tragic story. Yet no amount of invective could so effectively reveal the naturalness of the uprising or leave the burden of guilt for the manner of repression upon the Versailles government as this simple chronicle. The anarchic condition of Paris during the commune is described without reserve ; the story of the repression is left for the last forty pages. After a review of the statistics—20,000 killed, 13,450 condemned—the author ends with the simple comment : “ Thiers could triumph ; bourgeois order reigned in Paris and in France.” Such eloquent implication is high art.

The translation of the *Memoirs of Monsieur Claude*, chief of police under the second empire, by Katherine Prescott Wormly (Houghton, Mifflin Company, Boston, 1907 ; 314 pp.), is a condensation of five of the ten original volumes into one. The translator has chosen those incidents which have either a political or a dramatic interest. The book contains little for the student of history. To judge from this volume, Claude must have been somewhat short-sighted in everything but tracking criminals. His revelations have but little value except in relation to the spy work of Germans before the war.

Under the title *Emancipation of the Mediæval Towns* (Henry Holt and Company, New York, 1907 ; 69 pp.), Professor F. G. Bates and Mr. P. Titsworth of Alfred University have translated the corresponding section of Lavissee and Rambaud's *Histoire générale*. The monograph, which is by A. Giry and A. Réville, is well worth translation, but needs some editorial comment to counteract its narrowly French point of view.

Two months before the separation of Norway and Sweden, in October, 1905, Dr. Nordlund issued a statement of the Norwegian case : *The Swedish-Norwegian Union Crisis* (Upsala, Almqvist and Wiksell, 1905 ; 107 pp.). He discusses at length the technical points involved in the consular controversy, making some rather stringent criticisms of Nansen's little book on the same topic. He admits, however, that the crisis was not the outcome of a dispute over juridical questions, but the culmination of a growing nationalism in Norway.

The Norwegian party leaders needed new programs ; " national sensitiveness, already considerable, became excited to the utmost under the suggestive eloquence of Björnson and other agitators " ; imagination was fed on heroic sagas and Viking exploits ; Sweden was " too conciliatory with the crafty, unreasonable and dishonest Norwegians " ; and so the crisis arose. The tract is an interesting and valuable source, for it expresses the history-making feelings that often escape juristic examination. There is a useful appendix of constitutional documents.

Professor Fahlbeck's volume, *La Constitution suédoise et le parlementarisme moderne* (Paris, Picard et Fils, 1905 ; 349 pp.) is a welcome addition to the literature on Swedish government available to those who do not read the Swedish language. The most valuable portion of the book is the first four chapters (in which the author outlines the development of the Swedish constitution) and the appendix of documents in French. The second part of the work is devoted to a comparison of the Swedish parliament with that of other countries, summing up the results in a concise and interesting table (pp. 283-285), designed to show why the English system ought not to prevail in Sweden. The powers still exercised by the Swedish king are too considerable, the two chambers enjoy equality, and the ministry is not designed for responsibility. Moreover, " Sweden lacks the first condition for parliamentary government on the English fashion, that is to say, parties struggling for power without representing the interests of any social group "—a statement which will doubtless surprise students of modern English history.

The first issue of the *Jahrbuch des öffentlichen Rechts* (Tübingen, J. C. B. Mohr, 1907 ; vi, 429 pp.), published by Professors Jellinek, Laband and Piloty in connection with their systematic work *Das öffentliche Recht der Gegenwart*, has now appeared. In some respects this annual is disappointing, for it was to be hoped that it would contain precise information on the year's developments in constitutional law in at least every important country. The difficulties of such an undertaking are of course enormous if not insurmountable, and our editors have contented themselves with publishing special articles of undoubted interest on several constitutional questions. Professor Laband reviews the historical evolution of the German imperial constitution since the foundation of the empire ; Professor Zorn outlines the development of political science during the same period ; Professor von Ullmann writes on the Hague Conference of 1899 and the growth of international law ; Professor Freund (Chicago), on jurisprudence and legislation ; Professor Bartholdy, on reform in the administration of justice ;

Dr. Steinbach, on legal and parliamentary government in Hungary; and Professor Burgess (Columbia), on the American presidential election. There are also notes on public law in Prussia in 1906; on the Bavarian Landtag election law; on constitutional and administrative reform in Württemberg; on the constitutional revision of 1904 in Baden; on recent administrative changes in Brunswick; on constitutional revision in Mecklenburg; on the latest advances in Belgian public law; on legislation in Denmark during 1906; on the development of the Swiss federal constitution since 1874; and on public law in Spain.

Professor John R. Commons has published a second edition of his *Proportional Representation* (New York, The Macmillan Company, 1907; xi, 369 pp.), without any material alterations in the original text. As there has been relatively little progress in the introduction of proportional principles since the appearance of the book eleven years ago, and as the arguments advanced in support of the proposed reform are substantially the same, the volume retains all of its intrinsic merits even as a reprint. Professor Commons has furthermore added some appendices on the legalization of parties, the initiative and referendum, proportional representation from the American point of view, and the representation of interests.

The first series of public lectures on the Blumenthal foundation, in Columbia University, was delivered by Dr. Albert Shaw and has now been published under the title, *Political Problems of American Development* (New York, The Columbia University Press, 1907; vii, 268 pp.). The chief topics considered are: sectionalism and unity, immigration, race and citizenship; domain and public guardianship of natural resources; parties and their relation to government; economic policies relating to railways, tariff and money; and, finally, foreign policy. Dr. Shaw's thesis is that "the underlying purpose of the American government has been to create and maintain democratic institutions, based on a high degree of average intelligence, capacity and well being"; and a decidedly optimistic note runs through each lecture. We have been successful in dealing with European immigrants in general, but we will not allow any large influx of Mongolians to impair the essential unity of our civilization. The negro question will be solved through the working of many natural forces, and, by degrees, conditions tolerable to both races will be established. The spoils system in politics has not been eliminated, but it is no longer dominant; the recent policy with regard to the conservation of natural resources is to be approved; the further concentration of wealth must not be en-

couraged by failure of the government to protect the citizen from spoliation ; and the extension of government activity is not a departure from original ideals but is designed to protect the citizens in the exercise of a reasonable freedom of action.

A fruitful theme for discussion at meetings of grammar school teachers is the problem of combining instruction in history and civics, and Professors Woodburn and Moran, in their *American History and Government* (Longmans, Green and Company, New York, 1906 ; lxxxviii, 476 pp.), have attempted to supply the missing text-book. Their plan is a simple one. They devote ten chapters to the history of the colonial period from the early explorations to the establishment of independence ; they then turn aside from the narrative to describe in ten chapters the organization of the government ; finally the narrative is resumed and brought down to the present time. The value of their work can only be determined by the practical test of the classroom.

Dr. Herman V. Ames has done a real service to the teachers of American history by bringing together from sources not easily accessible a selection of *State Documents on Federal Relations* (Longmans, Green and Company, 1906 ; 320 pp.), which serves to illustrate the attitude of state legislatures on the great federal issues from the formation of the constitution to the outbreak of the Civil War. There are in all one hundred and fifty-five papers, comprising resolutions of legislatures, and speeches, messages and letters of governors. These materials enable teachers and students to ascertain at first hand the views of the various states on such important questions as the assumption of state debts, the embargo act, the bank, the tariff, internal improvements, nullification, abolition, slavery, compromise measures and the beginning of secession. The papers are prefaced by explanatory notes and a bibliographical apparatus which form an elaborate introduction to an almost unworked field of American history.

The broad experience of Secretary Taft as a politician, judge, colonial administrator and member of the cabinet gives a highly practical value to his Yale lectures, now printed under the title of *Four Aspects of Civic Duty* (Scribners, New York, 1906 ; 111 pp.). There are few questions of political life which he does not touch, directly or by suggestion. He is out of patience with the *laissez-faire* doctrines of the old-time professor and quite angry with the "university graduate of means and opportunity for social usefulness who allows his emotional side to overcome his judgment so that he develops into a parlor socialist." He urges the importance of practical politics even at the cost of sometimes associating with saloon keepers ; for "there

are among them honest, hardworking men rising early in the morning and staying up late at night," and they have influence over workingmen and persons with small means. Speaking from the standpoint of a judge, he deprecates giving too much power to juries, for they are apt to be charitable at the expense of corporations; and he insists that the Supreme Court ought to be held up constantly to the state courts as an example. His political experience convinces him that the day of the "muckraker" is past, that our newspapers are too regardless of personal rights and that an inheritance tax is to be commended. From his experience as first colonial governor, Mr. Taft concludes that no other government would be as unselfish in the Philippines, that only a small fraction of the restless demand independence and that our next great task there is industrial education. As secretary of war, Mr. Taft takes to task anti-imperialists and critics of the government in times of crises; he finds many practical limitations on the executive in the discharge of his duty, and he praises the efficiency of our civil service as well as the general disinterestedness of the legislators at Washington.

The Hart, Schaffner and Marx prize essay awarded to Dr. Earl Dean Howard is now published as *The Cause and Extent of the Recent Industrial Progress of Germany* (New York and Boston, Houghton, Mifflin and Company, 1907; 947 pp.). Half of the volume is devoted to a brief résumé of the industrial history of Germany, especially since the war with France—a résumé which furnishes a useful introductory outline of a subject on which there is little or no literature in English. The causes for the rapid economic advance of Germany, according to Dr. Howard, are physical vigor and fecundity, military discipline, capacity for organization, inventive genius, industrial education and financial ability. Dr. Howard accepts the statistics of Professor Ashley as evidence of the increase in the prosperity of the working classes, approves the activities of the government on their behalf, and concludes that the German workingman in general is contented—three million social democrats notwithstanding.

Dr. Frederic C. Howe's book on *The British City* (New York, Charles Scribner's Sons, 1907; xvii, 370 pp.) is a sympathetic study of municipal ownership and administration in England viewed as a means of improving the economic and social conditions of the city dweller. Incidentally he maintains that British municipal enterprise is on a sound financial basis and tends to eliminate a large portion of corruption by removing the question of franchises from city politics. Dr. Howe nevertheless does not believe that "clean" politics and govern-



ment by gentlemen will alone eliminate the terrible overcrowding and the wide-spread poverty in cities, since these evils spring from special privileges which the ruling class, however honorable in intentions, will not relinquish. As a remedy, our author suggests a militant democracy with the taxation of ground values as the central principle of its program.

In a small volume of about forty pages, President Eliot discusses the advantages enjoyed by rich men and the problems confronting them (*Great Riches*, New York, Crowell and Company, 1906; 38 pp.). In general his reflections are comforting to the person of moderate fortune, for the law of diminishing returns works frightfully fast on the rich man's pleasures. Even in the investment of money, the vast estate so carefully improved cannot be secured for his family. Moreover his children are handicapped by the lack of proper stimulus to industry. President Eliot therefore advises the wealthy father to encourage his children to engage in the ministry, politics and social service, and expresses the belief that there is no danger in America of a permanently rich class, on account of the prevailing laws of inheritance and the tendency of fortunes to dissipate.

A somewhat unique statement of the leading ideas and facts of the movement for the advancement of women is Dr. Karl Wolf's *Katechismus der Frauenbewegung* (Leipzig and Berlin, Teubner, 84 pp.). It contains in all 372 questions and answers covering the entire field under the following topics: general principles, historical origin and development of the woman question, education of women, their legal rights, their occupations, their relation to general culture. Here one can find in short form a precise description of the woman movement, the position and distribution of women in German industries, their political and civil rights and their concrete demands for legal and economic reform. There is also a short bibliography.

It is difficult to see any particular reason for the translation of M. G. de Molinari's *La Société future* (*The Society of Tomorrow*, New York, G. P. Putnam's Sons, 1904; xlviii, 230 pp.), for the beatific visions of the millennium through free trade and *laissez faire* are not unknown to the English-speaking world. There is nothing new or illuminating about the theory that the "population is limited by the means of subsistence" or that "capital is the product of thrift." Still more inexplicable than the translation of the work is the addition of a collectivist introduction by Mr. Hodgson Pratt.

The extensive agitation for woman suffrage in England has induced Dr. Stanton Coit to issue a cheap edition of Mill's *The Subjection of*

*Women* (Longmans, Green and Company 1906; 128 pp.) A brief introduction contains an analysis of the argument of the book and a summary of the changes in the legal status of women since its first publication in 1869. The fact that women are still subject to laws which are not of their own making leads the editor to contend that the volume is as timely to-day as it was when it first came from the press.

M. de Molinari's *Questions économiques à l'ordre du jour* (Paris, Guillaumin et Compagnie, 1906; 387 pp.), is a collection of essays on several topics which are attracting public attention to-day: "the natural laws which socialists and protectionists ignore"; the relation of these laws to the participation of labor in the profits of production; the justification for the share enjoyed by capital; the causes which are responsible for protectionism and will work for its destruction; the substitution of the gold for the silver standard and the necessity of securing a less unstable measure of value; the utility of religion; and finally the impossibility of perpetuating a military régime in opposition to the actual conditions of social existence. The point of view is that of the individualist free-trader, and the conclusions harmonize in general with the principles of that school.

Mr. Sydney Reeve's *Cost of Competition* (New York, McClure, Phillips and Company, 1906; xix, 607 pp.) is an eloquent protest against the economic and ethical cost of the competitive system of industry. According to our author, the ceaseless struggle for profit and livelihood is chiefly responsible for poverty, urban congestion, corruption in politics, disreputable journalism, "sheet-iron cornices in imitation of marble masonry" and "frantic advertising signs." For the economic science of the schools, Mr. Reeve has high contempt; and he contrasts with the exact working of the laws of physical science its inability to predict the movements of social phenomena. The test of science, he says, is this power to predict; "Yet our economic science predicts nothing. Not a war, not a panic, not a strike, not even a flurry upon Change does it pretend to predict to the confidence of even a minority of its adherents. Not a single legislative body or policy is guided by its dictum." Mr. Reeve proposes to make the beginning from the foundations—as other men have done before him—and build a science principally upon the theories of Edward Bellamy. Men will differ as to the degree of his success, but it must be admitted that he has presented his case forcefully if not always logically and has written many passages of genuine literary merit.

Professor Goldwin Smith's little volume on *Labour and Capital* (The Macmillan Company, 1907; pp. 38) is designed as a piece of

candid advice to workingmen. It deprecates the use of violence or annoyance of any kind for the purpose of deterring any man from making his bread by such honest calling as he may see fit and under any employer that he may choose. The author also suggests that heirs of wealth, for their own safety in these troublous times, should "try to make their privileges less invidious, at the same time elevating themselves and enhancing their enjoyment . . . by mingling with the cup of pleasure some drops at least of social duty."

A tangible result of a unique departure in the methods of the French seminar is offered in the collection of essays under the title *Questions monétaires contemporaines* (Paris, Larose et Forcel, 1905; 852 pp.). With a view to inducing their distinguished students to engage in scientific work at a period when much time is ordinarily wasted in the preparation for examination, several professors of the University of France, Professors Cauwès, Souchon and Bourguin, initiated the plan of a work of coöperation in the intensive study of a single important practical question. Among the subjects treated by the co-workers are money and prices, the production of gold and of silver, the fall in the price of silver, bimetallism in Europe, and the money question as it presents itself in Italy, Austria, the Far East and South America. Aside from the good effects of the coöperative work in drawing teacher and students into closer relation and in promoting more searching common criticism, the very high quality of the essays recommends the plan that has been followed.

A plea for the speedy repeal of the Dingley law is made by Franklin Pierce in his book *The Tariff and the Trust* (New York, Macmillan Company, 1907; 387 pp.). The author has not succeeded in throwing any new light on the question. The old familiar facts and ideas are stated in the old familiar ways.

Under the title of *Economics as a University Discipline* (*Die Nationalökonomie als Universitätswissenschaft*, Leipzig, Teubner, 1906; 407 pp.), Professor Wilhelm Stieda has published a scholarly dissertation as the twenty-fifth volume of the proceedings of the philologico-historical section of the Royal Saxon Academy of Sciences. It is a unique contribution to the history of economic pedagogics, and, incidentally, to the history of economic science. Dr. Stieda treats of the origin of the so-called chamber-sciences (*Kameralwissenschaften*) in the German universities, and he gives some interesting facts about the economic societies and the general conditions in the German universities in the latter half of the eighteenth century. He then takes up, in detail, the growth of the economic faculties in the more important uni-

versities, and ends with a minute description of the development of political science in general at the University of Leipzig. The investigation is based largely upon hitherto unpublished material, and will be invaluable to students of the history of economics.

From the pen of M. Hector Denis, professor at the Free University at Brussels, comes the second volume of his history of economics (*Histoire des systèmes économiques et socialistes*), under the title of *Les Fondateurs* (Paris, Giard et Brière, 1907; 576 pp.). M. Denis' plan of writing a history of economic theory, it will be remembered, is to concentrate attention upon a few leading thinkers, treating them as representative of the entire development. Thus, the present volume, after dealing briefly with Godwin and Condorcet, apports over half its space to Ricardo and Malthus and devotes the rest of the volume to Sismondi, Owen and Thompson. M. Denis bases his description upon material which has become familiar to all English-speaking students, and his temperate conclusions are in harmony with those of the recent English and American writers on the subject. While, therefore, the work will be undeniably valuable and interesting to his compatriots and to the French, it brings comparatively little of importance to us. The only exception is the full and interesting treatment of Sismondi.

Since the re-discovery by Roscher of the book of Oresme, the noted mediæval writer on money, there has grown up quite a literature regarding the exact importance and originality which ought to be ascribed to him. The latest contribution to the subject is a bulky and elaborate work by M. Emile Bridrey, entitled *Nicole Oresme*, with the sub-title, *La Théorie de la monnaie au xiv<sup>e</sup> siècle. Etude d'histoire des doctrines et des faits économiques*. (Paris, Giard et Brière, 1906; xxxix, 741 pp.). M. Bridrey's work bristles with erudition and is planned on a gigantic scale. After a preliminary critical chapter on the various texts, he takes up the feudal conception of money, the theory of Oresme, a criticism of mediæval monetary theory and a study of the real sources of the doctrine. A second part deals with the application of the theory, especially in the monetary reform of Charles V and its effect, and offers a conclusion as to the influence of Oresme on subsequent monetary theory. The series of appendices include extracts from the Latin texts and the early English translation, and some interesting hitherto unpublished manuscripts consisting of marginal notes, or glosses, on Aristotle by Oresme. There is also an elaborate bibliography of 39 pages. Taking it all in all, the work of M. Bridrey may well be called the definitive treatment of the subject, and while it does

not sustain the somewhat exaggerated claims of Roscher and Wolowski, it revindicates for Oresme the important position which has been denied to him by many critics. As a contribution to the history of mediæval economic theory, M. Bridrey's book, which is that, on the whole, of an historian rather than of an economist, constitutes a work of the first magnitude.

Another phase of the history of mediæval economic theory is represented by a study of the usury question by Dr. Franz Schaub, *Der Kampf gegen den Zinswucher, ungerechten Preis und unlauteren Handel im Mittelalter, von Karl dem Grossen bis Papst Alexander III* (Freiburg, Herdesche Verlags-Buchhandlung, 1905; 217 pp.). Although published under the auspices of the theological faculty of the University of Munich, it deals with matters of great interest to the economist; for, at the period of which it treats, a large part of the economic doctrine, as is well known, was contained in the writings of the theologians. The author attempts to ascertain the origin of the mediæval theory and devotes the first part of his book to the legislation and the economic conditions at the time of Charles the Great; the remainder of the book deals with what he calls the second great usury legislation, under Pope Alexander III. Schaub differs entirely from Fedor Schneider, who claims, in a recent article in the *Vierteljahrsschrift für Social- und Wirthschaftsgeschichte*, that Schaub has ascribed entirely too much importance to the Carolingian period and has really misconceived the economic facts. This is not the place to discuss the relative merits of the opposing views; it will suffice to call the attention of students of the history of mediæval theory to the mass of new material, especially of a literary character, that has been assembled by Schaub.

M. Paul Guiraud, a professor in the University of Paris, has been long and favorably known not alone to historians but also to economists, more especially because of studies on the land systems of Greece. He has now collected some of his miscellaneous essays on economic topics under the title *Etudes économiques sur l'antiquité*. (Paris, Hachette, 1906; 297 pp.). Among the topics treated are the development of labor and the state of population in Greece; the property tax in Athens as well as in Rome; the economic basis of Roman imperialism and the career of a typical Roman financier, Rabirius. M. Guiraud bases his work everywhere on original material, and his studies will be of interest to those who emphasize the importance of economic factors in political and social development.

The attention now devoted to India by many students of compara-

tive politics lends a special timeliness to the collection of essays and speeches by Mahadev Govind Ranade, under the title, *Essays on Indian Economics* (Madras, G. A. Nateason and Company, 1906; 353 pp.). The first edition appeared during the lifetime of Justice Ranade, in 1898, and this second edition forms the first instalment of his collected writings. The author not only has a complete command of English but uncovers with great skill the mistakes made by the British in applying the maxims of English political economy to Indian conditions. Everywhere temperate in the expression of his opinions, the author discloses familiarity with economic facts and economic speculation on the European continent; and he brings out in a very convincing way the influence which English domination has exerted upon what he calls the progressive rustication or ruralization of Indian economic life.

The financial history of the Civil War has been discussed from many points of view; but it has been reserved for Mr. Ellis Paxson Oberholzer to make it center around the activities of a single individual. In his *Jay Cooke, Financier of the Civil War* (Philadelphia, Jacobs and Company, 1907; 2 vols., 590, 658 pp.), Mr. Oberholzer has collected a great mass of interesting detail. He presents a vivid account of the assistance which Jay Cooke rendered to the country in connection with the public subscription to the great five-twenty and seven-thirty loans. Like every enthusiastic admirer, he inevitably exaggerates the exploits of his hero; but it is well to recall, to an age whose chief memory of Jay Cooke is associated with his unfortunate relations to the Northern Pacific Railway and his tragic failure of 1873, the fact that he did indeed do yeoman's service for his country during the Civil War. Mr. Oberholzer's well-written volumes enable us to peer behind the curtain, and to learn, what has been long suspected, that Secretary Chase to a very great extent leaned upon, and learned from, this simple-minded and warm-hearted patriot. We may indeed not ascribe to him, as does Mr. Oberholzer, the same influence in the Civil War that Robert Morris exercised during the War of Independence; but we must recognize the fact that Jay Cooke contributed not a little to the upbuilding and the maintenance of the public credit. The book will be indispensable to the future historian of fiscal affairs.

The Moody Corporation has recently added two books to its list of works which are of interest alike to the economist and to the practical financier. The first is a small book by Thomas Gibson, entitled *The Cycles of Speculation* (1907; 183 pp.). This contains, in the first part, a not very profound discussion of crises; but it includes a rather good treatment of the connection between the supply of money and the

prices of securities. The second part furnishes a variety of information on puts, calls, privileges, scalping and the like, designed to be of practical assistance to the speculator, but incidentally affording much information to the outsider. The other work is a far more elaborate study, by Carl Snyder, on *American Railways as Investments* (1907 ; 762 pp.). This is a companion volume to similar works recently published by him on *Mining Investments* and *Classified Investments*. It takes up in turn all the more important railway lines and systems—about ninety per cent of the whole—and gives in clear and simple language the essential facts underlying the ordinary railway accounts. Although intended primarily to give to the investor the means of estimating the real worth of securities, the book will be of value to the general student.

Among the recent output of American books on the railway question, three volumes deserve special mention. The first is entitled *Railway Organisation and Working*, edited by Ernest R. Dewsnup (University of Chicago Press, 1906 ; 498 pp.) The volume comprises a series of lectures delivered before the railway classes of the University of Chicago, by officials of the railways themselves. Most of the addresses, which cover a great variety of topics, are very slight, only a few—as for instance that on the problem of car service—being of interest to the general reader or to the special student. A second work is *Railway Corporations as Public Servants*, by Henry S. Haines (New York, The Macmillan Company, 1907 ; 233 pp.) Mr. Haines has written so much on the railway question that it was evidently difficult for him to advance any new ideas. The work contains the substance of a course of lectures delivered at the Boston University School of Law, and he attempts to bring the discussion down to the spring of 1907. Perhaps the most striking part of the work is that which deals with the development of the Union Pacific Railway, which is shown now to be dominant or powerfully influential in 54,000 miles of railways. The third book is *The Federal Regulation of Railway Rates*, by Albert W. Merritt (Boston, Houghton, Mifflin and Company, 1907 ; 240 pp.). This is one of the Hart, Schaffner and Marx prize economic essays—and is a useful review of the chief decisions of the Interstate Commerce Commission. As the book, however, was written before the passage of the act of 1906, it sounds curiously out of date, notwithstanding the fact that references to the new law are added in the notes. Mr. Merritt's plan for national control is to create a special court to decide railroad cases, and to relegate to the commission all administrative powers. Not only is the book out of date, but some of its statements

are questionable. Such, for instance, is the passage on page 47, that private-car-line systems are beneficial, and that it would be a great economic waste for railways to run their own refrigerator cars—a statement which is evidently too broad and which can not be reconciled with the recent abandonment of the Armour private-car contracts by the Harriman lines.

The subject of the state purchase of railways has again come prominently to the front in England and in France since the recent transfer of the railways from private to government control in Switzerland, Italy and Japan. Mr. Edwin A. Pratt takes very strong ground against the scheme in his *State Railways: Object Lessons from Other Lands* (London, P. S. King and Son, 1907; 107 pp.). About half the book consists of a translation of M. Marcel Peschaud's article on the Belgian state railways. Both Mr. Pratt and M. Peschaud find in Belgium nothing but a warning example, and Mr. Pratt speaks in addition of the "disgraceful experience of state ownership in Italy." The book is a distinctly one-sided tract.

It is interesting to read, side by side with Pratt's book, the work of M. Edgard Milhaud on the suggested purchase by the government of the French railways, *La Rachat des chemins de fer* (Paris, Edouard Cornély et Compagnie, 315 pp.). M. Milhaud, who is professor of economics at Geneva, has written a far more elaborate and less intemperate book, but one which is very strongly in favor of state purchase. He finds in the Belgian railways much to admire in comparison with the French private railways. His description of the Italian railways, written just before they were turned over to the state, shows that private ownership in Italy was certainly no better than is government ownership at present. The most interesting part of the book is the contention as to the growing success of the rather insignificant government railway system in France, and the proof that even the opponents of government ownership can no longer find any fault with the government line. Notwithstanding all the opposition, the system of government railways is making continual and marked progress on the European continent.

Since the lamented death of Toynbee, whose book on the industrial revolution in England was really intended to be only a sketch, we have had no thorough investigation of that interesting period of economic transformation in England. The gap has now been partly filled by an elaborate work by M. Paul Mantoux, entitled *La Revolution industrielle au xviii<sup>e</sup> siècle: Essai sur les commencements de la grande industrie moderne en Angleterre* (Paris, Société Nouvelle, 1906; 543 pp.).



M. Mantoux has gone direct to the original material, having had access not only to the government blue books and to the important pamphlet literature in the British Museum and in the Foxwell library, but also to various manuscript collections of important personages which are to be found in the provinces as well as in London. The result is a thorough and elaborate piece of work, which takes up in turn the various phases of the transformation from 1760 to 1800, with some interesting surveys of the periods immediately antecedent and subsequent. The investigations are indeed not exhaustive, as could not well be the case, and there is still ample opportunity left for further researches into the minute details. But so far as the broad lines of development are concerned, M. Mantoux's book is a notable addition to the history of economic institutions.

One of the most interesting episodes in British history is recalled by the appearance of *A History of William Paterson and the Darien Company*, by James Samuel Barbour (Edinburgh, Blackwood, 1907; 284 pp). Paterson will be remembered as the founder of the Bank of England and as the projector of the ill-fated expedition to Darien. To those who have had access to the three-volume edition of the writings of Paterson, by Saxe Bannister, published in 1859, there will be comparatively little that is new in Mr. Barbour's book. But he has given an entertaining account of the ill-starred scheme and has made clear to the present generation some of Scotland's obligations to the gifted schemer.

The example of an economic study of the leading English industries, so well set a few years ago by Professor Chapman in his *Lancashire Cotton Industry*, has been followed by two excellent books on *The Woollen and Worsted Industries* and *The Paper Trade*, both published by Methuen and Company, in 1907; the former written by Professor J. H. Clapham, of the University of Leeds, and the latter by Mr. A. Dykes Spicer, the head of one of the largest paper mills in England. Both books deal fully with the sources of the raw material, the detailed methods of manufacture and the conditions of the employees. Professor Clapham's book gives, in addition, an interesting account of the rather complicated system of commercial organization, and adds a chapter on the woollen and worsted industries in other countries, including the United States. Both works contain a mass of material which will be invaluable to the student of comparative economic conditions.

Mr. Louis B. Boudin has reprinted from the *International Socialist Review* a number of articles on *The Theoretical System of Karl Marx*

in the *Light of Recent Criticism* (Chicago, Charles H. Kerr, 1907 ; 286 pp.). In socialism, as well as in economics in general, there is now a distinction between orthodoxy and liberalism, with a difference, however, that in the case of socialism a great deal of personal bitterness has been imported into the discussion. M. Boudin is an orthodox Marxian of the most extreme type—a type which is fast disappearing in Germany, and which has almost disappeared in all other countries where socialism is becoming a great practical movement. It is significant that in the United States, where practical socialism is insignificant, the theoretical intransigents should be so much in evidence.

When Karl Marx's *Capital* was translated into English some twenty years ago, the two volumes of the English translation represented only the first volume of the original. The socialist publishing house of Chas. H. Kerr and Company, of Chicago, has now undertaken the publication of an English translation of the entire work, and has laid English-speaking students under obligation by issuing a translation of the second volume under the title, *The Process of Circulation of Capital*. The volume is translated from the second German edition by Ernest Untermann. The previous English translation of the first volume has been reprinted in a single companion volume, and it is hoped that the third volume will soon be issued.

Mr. Pierre Ramus, a continental anarchist, has published a sketch and appreciation of William Godwin under the title of *Der Theoretiker des kommunistischen Anarchismus* (Leipzig, Dietrich, 1907 ; 86 pp.). To English readers, Godwin is of course by no means so unfamiliar as Mr. Ramus thinks ; and the monograph adds little, if anything, to the common fund of information on Godwin. The chief use of the tract is to give the author an opportunity to explain his own views of anarchism.

From the DeVinne Press there comes a sumptuous monograph by W. Hamilton Benham on *Trade and Trade Centers of History* (1907, 64 pp.) It is printed for Mr. Henry W. Swords, and its only justification is the excuse which it gives for including some of the remarkable prints of prominent merchants and financiers in the collection of Mr. Swords. As a contribution to, or exposition of, the subject of trade centers it is of no significance.

In *The Romance of Steel, The Story of a Thousand Millionaires* (New York, A. S. Barnes and Co., 1907 ; 376 pp.) Mr. Herbert M. Casson gives a popular and dramatic account of the development of the modern iron industry. The book is ornamented with numerous photographs and is well calculated to maintain the interest of the average reader.

The history of Icaria has been sketched several times in recent years by American writers. It has, however, been reserved for a young Frenchman, M. Jules Prudhommeaux, a former student of Henri Michel, to write an exhaustive account of the various experiments of Cabet, under the title *Icarie et son fondateur Etienne Cabet* (Paris, Cornély, 1907; 688 pp.). M. Prudhommeaux spent several years in this country on a mission to study the Fourierist communities, and this book on Cabet is simply the first instalment of his researches, soon to be followed by others. The book devotes little attention to the history of Cabet after his return to the United States, but is very full as to the American experiments. The bibliography occupies 36 pages and contains a list not only of the writings of Cabet himself, but of the periodical and pamphlet literature issued by the participants in the various communities. The volume also contains a large mass of original documents. Altogether it is easily the best and fullest account of the subject that has yet appeared.

Mr. Benedikt Güntzberg has attempted to treat a somewhat less familiar aspect of the work of the physiocrats, under the title *Die Gesellschafts und Staatslehre der Physiokraten* (Duncker und Humblot, Leipzig, 1907; 144 pp.). It is well known that the physiocrats hoped to effect their economic reforms through the existing monarchic government, and that they endeavored to bolster up the theory of the absolute monarchy by using the same doctrine of natural law which, in the economic field, led them to extreme individualism. Mr. Güntzberg gives a detailed account of these doctrines and explains how it was that the physiocratic politics were so much less successful than their economics.

In a study of von Thünen entitled *Johann Heinrich von Thünen und seine nationalökonomische Hauptlehren* (A. Francke, Bern, 1907; 156 pp.) Dr. Max Büchler has attempted to give a final estimate of that great writer's contributions to economic science. Though the book is an outgrowth of four years of study, it can scarcely be said to have achieved the result hoped to be attained by the author. Dr. Büchler finds the real contribution of von Thünen, apart from his use of the mathematical method, to consist in his theory of the cost of transportation and the so-called intensity doctrine of rent. He characterizes his formula of wages—which it will be remembered von Thünen esteemed so highly as to have it engraved on his tombstone—as nothing more than “an interesting error of an otherwise acute thinker.” But as Dr. Büchler is evidently in complete ignorance of the newer theories of wages and interest, which have become familiar in England and America, he utterly fails to estimate in their due propor-

tions the contributions of von Thünen to those doctrines. Von Thünen is judged simply with reference to the older theories of rent and population. So far as it goes, Dr. Büchler's monograph is valuable; but it is far from being a definitive estimate of the real importance of von Thünen.

An unusually timely book is published by the Macmillan Company under the title *The Modern Trust Company*, by Kirkbride and Sterrett. The authors endeavor to give "a working knowledge of trust company and banking methods," and, to this end, they offer a classification of the varied forms of banking and fiduciary business carried on by trust companies in the United States, to each of which they give a typical, detailed description. The clearness and usefulness of the work is enhanced by the reproduction of actual business papers and forms in use, and by the addition of an ample bibliography.

*Economic and Statistical Studies, 1840-1890*, by John Towne Danson (London, T. Fisher Unwin, 1906; 282 pp.) was published chiefly as a memorial to Mr. Danson, who died in 1898. The volume contains an introduction by Professor E. C. K. Gonner, a biographical memoir by the daughter of Mr. Danson, and pamphlets on "Colonies" and the "Condition of the People of the United Kingdom, from 1839 to 1847." A piece of work, unfinished at the time of Mr. Danson's death, in which he sought to bring down to the end of the century the work of Tooke and Newmarch in the history of prices, is here published in a series of charts and tables which is said to be the practical *raison d'être* of the volume. After reading the author's criticism of his friend J. S. Mill, to the effect that personal intimacy diminished the respect for his mental powers, one is not surprised to learn that Mr. Danson "had a hawk-like sense—and satisfaction—in detecting small inaccuracies."

The demand on the part of teachers of introductory classes in economics for a handbook of illustrative material will doubtless be met by Professor Bullock's *Selected Readings in Economics* (Boston and New York, Ginn & Company, 1907; 705 pp.). An abundance of descriptive, historical and theoretical material is supplied, bearing upon the most important topics treated in the usual elementary manual.

In a doctor's dissertation by Carl Piekenbrock on *La Loi allemande sur les bourses du 22 juin 1896 et ses effets* (Essen, W. Girardet, 1905; 270 pp.) are to be found a sketch of the regulations applying to the exchanges before the law of 1896 was passed, a description of the economic and political causes which led to that particular form of legislation, an analysis of the aims of the law and an opinion as to its

actual effects. The author concludes "de quelque côté qu'on étudie la question, on voit que la loi de 1896 n'a produit que des effets malfaisants."

If it be true that a foreigner describing Americans and American conditions must begin by flattery if he desires to be read, *American Finance*, by W. R. Lawson (Edinburgh and London, Blackwood and Sons, 1906; 391 pp.), which was "written specially for American readers," should have a wide circulation. This accomplished journalist and financier has given a very readable account of our domestic finance, covering its evolution, its organization, its creative and its destructive powers. At a time when every "financial interest" has its plan of financial reform this remark of Mr. Lawson's should be pondered: "In financial or commercial crises a great reserve power, like the independent Treasury, standing calmly outside the storm and ready to assist the shipwrecked, may be a veritable bulwark. Against the service it can render in perilous times, the money it may divert from banking and commercial channels should be a very moderate offset."

Under the title of *Staat und Wirtschaft*, Dr. Biermann of Leipzig has planned a work of three volumes designed to set forth a sociological theory of the state. The first volume (Berlin, Puttkamer and Mühlbrecht, 1905; 199 pp.) is a study of the theories of economic individualism, as (in the author's opinion) they are represented by the physiocrats, Adam Smith and the classical school, anarchism, Marxianism and the Manchester philosophy. According to the author, there are two main types of social philosophers: those who view the welfare of the collectivity as the highest goal, to the attainment of which the individual is subordinate, and those who regard the welfare of the individuals composing society as the end of all social arrangements. The American student who has had no intimate acquaintance with the German "Staat" will doubtless wonder what the welfare of the collectivity is apart from that of the component elements. From his point of view, Dr. Biermann insists that Marxian philosophy is purely individualistic: its goal is not a highly developed society to be reached only through state aid, but on the contrary is that individualist and materialist goal—the greatest good for the greatest number. The principle value of the volume is its summary of the views of the nineteenth-century individualists.

# POLITICAL SCIENCE QUARTERLY

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## MARXISM VERSUS SOCIALISM. I.

**T**HE rôle which socialism is playing in the modern world and the extent to which the socialistic army in all civilized countries is marching under the banner of Carl Marx give to the body of doctrines which bear his name a unique position in social science. Even if the Marxian system be regarded as a tissue of errors, the fact that millions of men accept it makes it significant. It has, however, another claim upon the attention of the economist. Had Marxism failed to win a single adherent, it would still have been necessary for every serious student of economic theory to endeavor to understand it; for it contains a challenge that can be neither ignored nor evaded.

The literature of protest against Marxism is already vast, yet, with the notable exception of such writings as those of Böhm-Bawerk, Seligman, Sombart and Stämmeler, who have dealt with special aspects of the system, the bulk of that literature proves conclusively to the well-informed reader that reason is but a fig-leaf for emotion. Too obvious in most instances is the critic's desire to emulate St. George and slay the dragon, even if personal modesty clothes the brave onslaught in the humble garb of scientific research.<sup>1</sup> With these critics emotions

<sup>1</sup> Marx, who as Pierre Leroux once said about him, "était fort pénétrant sur le mauvais côté de la nature humaine," has given to the motives of his critics a somewhat unkind interpretation. "In the domain of political economy," he writes, "free scientific enquiry meets not only the same enemies as in all other domains; the peculiar nature of the material it deals with summons as foes into the field of battle the most violent, mean and malignant passions of the human breast, the Furies of private interest." Marx, *Capital*, fourth English edition (London, 1891), p. xix.

run riot. They have in their zeal attempted the impossible: to kill the dragon without seeing him. That even St. George could not have done.<sup>1</sup> Such criticism, carried on for two generations, has naturally established a tradition: a man of straw has been constructed for the express use of Marx's critics. Thus in the lectures which Mr. Mallock delivered last year in various cities and which were widely reported in the daily press, the familiar dummy-Marx held the center of the stage. Mr. Mallock's singular statements about Marx naturally served to aid socialist propaganda<sup>2</sup>; and in academic circles also his utterances elicited unfavorable comment. But where the student of Marx saw ignorance in the lecturer's statements, one familiar with the critical literature dealing with Marx could discover learning and erudition. Mr. Mallock reproduced pretty nearly all the mistakes, misstatements and misinterpretations for which the professional economists are responsible. In fact, as the literature stands to-day, it is really extremely difficult to study Marx and the literature about Marx and to steer clear of fatal misinterpretations. The writings of our leading economists, whose names inspire confidence and demand respect, block the way. The day-laborer who has read the *Communist Manifesto* and the pamphlets of Engels and Kautsky has to-day a firmer grasp of the Marxian doctrine than many a professional scholar.

<sup>1</sup> As early as 1895 Adolph Wagner pointed out that most of the critics of so-called scientific socialism had shown that they had not the least conception of what they were talking about. See *Die akademische Nationalökonomie und der Sozialismus* (Berlin, 1895), pp. 22, 23.

<sup>2</sup> Mr. Mallock's criticisms produced, for example, the able propagandist pamphlet of Morris Hillquit, Mr. Mallock's "Ability" (Socialist Literature Co., New York, 1907), which ends with the following lively sentences: "These then are the 'arguments and reasonings' of Mr. Mallock against the 'assumptions and sophistries' of socialism. Mr. Mallock has indeed demonstrated that he has equipped himself for the task of combating socialism by 'arduous and qualifying study.' It matters not that his study is limited to a hasty perusal of a single socialist tract and an unpublished utterance of an unknown 'Italian Socialist,' Giovanni Bossi. Mr. Mallock's ideas about study and knowledge are different from those of ordinary mortals. 'The kingdom of knowledge,' declares he verbally, 'is like the kingdom of heaven. From generation to generation the violent take it by force; and it is only the violent—or the men of exceptional capacity—who are able in any comprehensive way to take possession of it at all.' Whatever this remarkable sentence may mean . . . it is clear that in the case of Mr. Mallock the kingdom of knowledge refused to yield to violence" (p. 31).

## I

Of the current misconceptions of the Marxian system, the most fundamental and most general is the opinion that the labor-theory of value is the corner-stone of Marxian socialism. From this is derived the equally erroneous opinion that Marx's demand for social justice stands or falls with his theory of value. Or, as a recent Marx critic, Mr. J. E. Le Rossignol, professor of economics in the University of Denver, puts it: "Orthodox socialists are deeply concerned to prove it true, for if it can be shown that all values are created by labor alone, it must surely follow that all should belong to the hand and brain that created them."<sup>1</sup> This ethical interpretation of the Marxian theory of value and the desire to base socialism upon this theory are characteristic of the bulk of the academic literature about Marx. Thus Professor Foxwell writes about Professor Menger:

For him (Menger) Marx, not Ruskin, is the type of the socialist. Socialism in this sense, the only one really distinctive, has been well defined by Mr. Rae, in terms which Dr. Menger might have drafted himself: "It is not a theory of the state's action, but a theory of the state's action founded on a theory of the laborer's right—at bottom a demand for social justice—that every man shall possess the whole produce of his labor."<sup>2</sup>

Giving to the Marxian system this interpretation, Professor Menger was logically justified in making the courageous statement that "Marx is far inferior to Thompson, so that the work of the latter may be regarded as the foundation stone of socialism."<sup>3</sup> This statement is exceedingly interesting. It proves that by making an ethical labor-theory of value the spring and center of Marxian socialism, one *eo ipso* wipes out the difference between the sentimental, utopian socialism of the first half of the last century and modern so-called scientific socialism. Most of the academic writers have attributed to Marxian theory

<sup>1</sup> Le Rossignol, *Orthodox Socialism, A Criticism* (New York, 1907), p. 15.

<sup>2</sup> H. S. Foxwell, *Introduction to Anton Menger, Right to the Whole Produce of Labour* (London, 1899), p. xvii.

<sup>3</sup> Menger, *op. cit.*, p. 102.



precisely this sentimental character, but without drawing the logical conclusions.

What meaning then, the economist will justly ask, has Marx's theory of value? The answer is simple. Marx's theory of value occupies in his economic system the same position that the theory of value has occupied or has tried to occupy in many other systems. The classical systems of political economy were all metaphysics of commodities, philosophies of production and circulation. In Marx's metaphysics of production the theory of value occupies the same central position as the *Substanzproblem* in philosophical systems. This analogy is striking even in the phraseology of Marx. Marx is a realist, even a materialist, and is consistently, passionately, and naively so; but where he is dealing with a problem, the very existence of which could not be recognized by a strict and consistent realism, he has to fall back on mediæval scholasticism. Listen to his language:

1 quarter corn = x cwt. iron. What does this equation tell us? *It tells us that in two different things—in 1 quarter of corn and x cwt. of iron—there exists in equal quantities something common to both. The two things must therefore be equal to a third, which in itself is neither the one nor the other. . . .* Let us now consider the residue of each of these products; it consists of the same unsubstantial reality in each, a mere congelation of homogeneous human labor, of labor-power expended without regard to the mode of its expenditure. All that these things now tell us is that human labor-power has been expended in their production, that labor is embodied in them. When looked at as crystals of this *social substance*, common to them all, they are Values.<sup>1</sup>

That is written by Marx the materialist and sworn to by Engels—the same Engels who was so vastly amused by Kant's "*Ding an sich*," and who instructs us that chemistry in its recent progress has put an end to such mysterious entities.<sup>2</sup>

Whatever the faults and merits of Marx's theory of value may be, it was not intended as an ethical basis for socialism, but as a means of interpreting economic phenomena. It is quite true

<sup>1</sup> Marx, *Capital*, English translation, pp. 3, 4, 7. The italics are mine.

<sup>2</sup> Engels, *Socialism, Utopian and Scientific* (Chicago, 1905), p. xvii.

that his theory of value is the central theory upon which his economic analysis of the capitalistic system rests, in short, the foundation of his economic doctrine; but this theory plays no rôle whatsoever in his socialistic doctrine, which purports to be nothing more than a demonstration that socialism is inevitable.

Marx's socialistic doctrine is intensely realistic. He describes the existing economic phenomena and argues that the sum of these phenomena is bound to result in the expropriation of the means of production, in socialism. In this argument he deals with the economic phenomena historically, *i. e.*, he does not analyze them philosophically, but treats them as existing powers, and he expounds their political and social effects, which he regards as necessary and unavoidable. The key to his socialist doctrine is the economic interpretation of history with the class-struggle doctrine following in its train. Accordingly, the doctrine of modern so-called "scientific" socialism is found in all its completeness in the *Communist Manifesto*, which contains no reference to any theory of value. It is, on the other hand, when Marx is at work analyzing and explaining the economic phenomena of capitalistic society that his ingenious theory of surplus value is elaborated. This theory is to him the key-word by which we are enabled to decipher and comprehend all economic phenomena. It must always be remembered that, from Marx's viewpoint, the actual economic phenomena are the motor-powers of society determining its future. No analysis or interpretation of these phenomena, whether it be scientific or unscientific, increases or diminishes their sovereign power. Interpretation affects them no more and no less than a volume of astronomy affects the solar system.

How then did it happen that it was the theory of surplus value that primarily drew the fire of the learned economists; and why did most of them seem to think that in disproving that theory they had delivered a mortal blow to modern socialism? First of all, perhaps, because certain socialist agitators tried to make emotional capital out of the theory of surplus value. This circumstance can not, however, serve as an excuse for scholars who have undertaken to criticise Marxian socialism. Even if they deemed it unnecessary to study Marx's own writings, they

could have learned from many a propagandist leaflet<sup>1</sup> what rôle the theory of surplus value actually plays in the Marxian system. Secondly—and this probably furnishes in most cases the truer explanation of their misconceptions—they were not sufficiently impressed by the peculiarities of Marxian socialism to be disposed to draw a sharp line between the socialism of Marx and the socialism of his predecessors. It seemed to them, probably, like making two bites of a cherry: socialism is socialism, and its variations are but differences in shade. All pre-Marxian socialism was distinctly ethical; every peroration against capitalism contained or implied an appeal for social justice. Whenever the word "exploitation" was used, they accordingly thought themselves justified in looking for the usual end of the sermon. When Marx, in his *Capital*, describes the development of the English factory system, he does not mince matters. He makes the respectable English blue-books, to use Bernard Shaw's phrases, convict capital "of wholesale spoliation, murder and compulsory prostitution; of plague, pestilence and famine; of battle, murder and sudden death."<sup>2</sup> The citation of those deplorable facts and the energy of Marx's language struck some gentle scientific souls as an appeal for socialism. Add the circumstance that the first part of Marx's bulky volume was devoted to the elaboration of his theory of surplus value—a theory so little complimentary to the capitalistic organization

<sup>1</sup> For instance, see Paul Fischer, *Die Marx'sche Werttheorie*, Berliner Arbeiterbibliothek, Serie 1, Heft 9 (Verlag des Vorwärts, 1893), pp. 33, 34: "Die bürgerlichen Oekonomen haben die Marx'sche Werttheorie für das Hauptbollwerk erklärt, mit welchem der Sozialismus stehe und falle. . . . In fast allen Kritiken der Grundlagen des Marx'schen Systems spitzt sich die Frage nach der Richtigkeit oder Unrichtigkeit der Werttheorie auf die Alternative zu: Entweder Umsturz der Marx'schen Werttheorie oder Umsturz der Gesellschaft! . . . Diese ihre Meinung nun oktroyieren sie sans façon Marx auf. Weil sie sich einbilden, eine Werttheorie könne von direktem Einfluss auf die Entwicklung der Gesellschaft sein, setzen sie bei Marx ohne weiteres dieselbe Einbildung voraus. Ihre eigene vulgär-ökonomische Anschauungsweise als Masstab an die Marx'sche Theorie legend, verfallen sie in den kolossalen Irrtum, die Werttheorie nicht bloss für den Ausgangspunkt seiner Kritik der bürgerlichen Oekonomie, sondern auch für die Grundlage seiner sozialistischen Forderungen zu halten. Sie verkennen also total die Rolle welche die Werttheorie spielt." The italics are mine.

<sup>2</sup> *Fabian Essays in Socialism*, edited by G. Bernard Shaw, pp. 220, 221.

of society—and how could there be any doubt that Marx's doctrine is an ethical appeal for justice, and that the theory of value is its foundation? And if the Marxian theory of value be the foundation of a social movement that is growing so rapidly, then to destroy socialism one has only to destroy the labor-theory of value. Thus it is that we are blessed with so large a literature on the Marxian theory of value.<sup>1</sup>

In vain did Marx's co-worker and literary executor, Frederick Engels, protest against the putting of such an interpretation upon the theory of value. As early as 1884 Engels wrote:

This application of the Ricardian theory, according to which the whole social product belongs to the sole producers, the workers, as *their* product, leads directly to communism. This theory, however, as Marx has pointed out, is from an economic point of view formally false, since it is an application of ethics to economics. According to the laws of the bourgeois economy the greater part of the product does not belong

<sup>1</sup> Eduard Bernstein disputes a statement in my "Krisis der Sozialdemokratie" (Conrad's *Jahrbücher*, Bd. XVII, 1899, Heft 6): "Unrecht hatte aber diese Kritik, wenn sie meinte, dass mit der Widerlegung der Marx'schen Werttheorie der Marx-istische Sozialismus widerlegt oder auch nur erschüttert wird." Bernstein responds, in *Die heutige Sozialdemokratie in Theorie und Praxis* (München, 1906): "Dieses Naturgesetz der kapitalistischen Wirtschaftsweise aber ist nach der Marx'schen Lehre eben das oben gekennzeichnete Wertgesetz: die Lehre vom Arbeitswert und die auf ihm aufgebaute Mehrwertlehre. Gibt man sie auf, so rüttelt man damit ganz bedeutend am Marx'schen Sozialismus" (pp. 24, 25). It seems that the difference between us is one rather of terminology than of substance, but Bernstein's terminology is misleading. He obviously understands under the term "Marxian socialism" both Marx's historico-sociological doctrine, which deals with the real economic phenomena, and his economic doctrine, which tries to explain these economic phenomena. The theory of surplus value is vital only in the economic doctrine. In my opinion Marxian socialism rests upon the actual economic phenomena, such as concentration of industry, commercial crises, *etc.*, and not upon their economic analysis, which is of academic interest only. Besides, the economic system of Marx does not necessarily collapse with the abandonment of the labor-theory of value. For what purpose is the labor-theory of value constructed? For the sake of the theory of surplus value. For what purpose is the theory of surplus value constructed? To explain the whole of our capitalistic organization as a struggle for the rate of surplus, which is the motor power in our industrial development. One could, it seems to me, cut out or modify the theory of value, substitute the conception of profit for surplus value, and go on with the Marxian explanation of our economic life as a struggle for the rate of profit. But whether this is feasible or not, the collapse of the Marxian theory of value could be of moment to Marxian socialism only as a blow to the prestige of Marx and to his generally assumed infallibility.

to the workers who have produced it. Now if we should say that it is unjust that this should be so, in the first place this does not concern economics. All that we can say is that this economic fact contradicts our moral sentiment. Upon this, therefore, Marx never based his communistic demands, but upon the inevitable cataclysm of the capitalistic mode of production, which is going on before our eyes.<sup>1</sup>

Marx himself emphasizes the same thought in different ways on all sorts of occasions. For example, in his *Capital* he criticises, in Proudhon, precisely that ethical attitude which the critics of Marx attribute to Marx himself.

Proudhon begins by taking his ideal of justice, of "justice éternelle," from the juridical relations that correspond to the production of commodities. . . . Then he turns around and seeks to reform the actual production of commodities, and the actual legal system corresponding thereto, in accordance with this ideal. What opinion should we have of a chemist who, instead of studying the actual laws of the molecular changes in the composition and decomposition of matter, and on that foundation solving definite problems, claimed to regulate the composition and decomposition of matter by means of the "eternal ideas" of "naturalité" and "affinité"? Do we really know any more about "usury," when we say it contradicts "justice éternelle," "équité éternelle," "mutualité éternelle" and other "vérités éternelles" than the fathers of the church did when they said it was incompatible with "grâce éternelle," "foi éternelle" and "la volonté éternelle de Dieu"?<sup>2</sup>

Not only does Marx himself avoid appeal to ethical ideas, but the entire plan on which his system is constructed obliges him to take a non-ethical attitude toward economic phenomena. Does he not justify capitalism by emphasizing its absolute necessity? In the preface to his *Capital* he quotes with approval a Russian critic who has clearly apprehended his main idea. This critic tells us that Marx is trying to prove

both the necessity of the present order of things, and the necessity of

<sup>1</sup> Karl Marx, *Das Elend der Philosophie*, deutsche Uebersetzung, 2te Auflage (Stuttgart, 1892), Friedrich Engels, Vorwort, p. ix.

<sup>2</sup> Marx, *Capital*, English edition (London, 1891), vol. i, p. 56.

another order into which the first must inevitably pass over, and this all the same, whether men believe or do not believe it, whether they are conscious or unconscious of it. Marx treats the social movement as a process of natural history, governed by laws not only independent of human will, consciousness and intelligence, but rather, on the contrary, determining that will, consciousness and intelligence.<sup>1</sup>

How could such an attitude be reconciled with a plea for another social order on any moral ground, *e. g.*, on the ground that the worker is not getting the whole produce of his labor?\*

## II

In Brussels [Marx writes], where I was exiled by Guizot, I organized together with Engels, W. Wolff and others, a German "Arbeiterbildungsverein," which still exists. We published at the same time a series of printed and lithographed pamphlets, in which we criticised mercilessly that mixture of French-English socialism or communism with German

<sup>1</sup> Marx, *Capital*, English ed., vol. i, pp. xxvii, xxviii.

\* Sombart was absolutely right in what he had to say about Professor Julius Wolf's book on Socialism, and some of his charges hold good as regards nearly the whole critical literature on Marx, not excepting the most recent publications. Special attention should be paid to the following paragraph in Sombart's criticism: "Zum fast alleinigen Ziel seines Angriffs macht Wolf den Marxismus, obwohl er ihn—eine verhängnisvolle Nachlässigkeit—nirgends scharf von anderen sozialistischen Systemen unterscheidet. Einem richtigen Verständniss irgend einer der Marx'schen Hauptlehren war nun aber in dem Augenblicke die Möglichkeit abgeschnitten, als es dem Kritiker nicht gelungen war, den rein theoretischen Charakter des Marxismus zu erkennen. Darin dass Wolf die Lehre von Marx verethisiert, dass er sie, um einen Marx'schen Ausdruck zu gebrauchen, vermöcht, liegt das *πρώτον ψεδός* der gesammten kritischen Ausführungen des vorliegenden Buches. Das hätte Wolf vor allem einsehen müssen, dass sich der Marxismus von allen übrigen sozialistischen Systemen, die ich im Gegensatz zu ihm unter der Bezeichnung des ethischen Sozialismus zusammenzufassen vorschlage, durch seine antiethische Tendenz unterscheidet. Im ganzen Marxismus von vorn bis hinten steckt auch nicht ein Gram Ethik, folglich aber ebensowenig ein *ethisches Urtheil* als ein *ethisches Postulat*. Weder behauptet Marx an irgend einer Stelle, dass der Mehrwert dem Unternehmer nicht 'gebühre' noch dass der Arbeiter ein 'Recht auf den vollen Arbeitsertrag' habe. Nun läuft aber ein grosser Teil der Wolf'schen Kritik auf eine ethische Auseinandersetzung mit Marx über das 'Gebührliche' oder 'Ungebührliche' in der heutigen Produktionsordnung und Einkommensverteilung hinaus . . . und endlich heisst es zusammenfassend: 'Das Recht auf den vollen Arbeitsertrag begreift nach sozialistischer Auffassung alle Theorie und Praxis des Sozialismus in sich.' Hätte Wolf hinzugefügt 'mit Ausnahme des Marxismus,' so hätte er das Richtige getroffen. Dass er aber diesen in erster Linie einbegreift, macht die wichtigsten Angriffe seiner Kritik zu Windenmühlenskämpfen." Braun's *Archiv für soziale Gesetzgebung und Statistik*, 1892, vol. v, pp. 489, 490.

philosophy which then formed the doctrine of the "Bund."<sup>1</sup> Instead of that we postulated the scientific insight into the economic structure of civil society [*bürgerliche Gesellschaft*] as the only defensible theoretical basis of socialism. We also explained, in a popular form, that it is not a question of putting through some utopian system, but of taking a conscious part in the process of social transformation which is going on before our very eyes. . . . In the manifesto written for workingmen I discarded all systems and put in their stead a critical insight into the conditions, progress and general results of the actual social movement.<sup>2</sup>

This is Karl Marx's testimony in his own behalf as to the origin and scope of his socialistic doctrine. What did he mean by a critical insight into the conditions of this social movement? What was the fundamental proposition of the *Communist Manifesto*, which is the first outline of modern scientific socialism? Let us again listen to the testimony of one of the authors:

The *Manifesto* being our joint production [writes Engels], I consider myself bound to state that the fundamental proposition which forms its nucleus belongs to Marx. That proposition is: that in every historical epoch, the prevailing mode of economic production and exchange, and the social organization necessarily following from it, form the basis upon which is built up, and from which alone can be explained, the political and intellectual history of that epoch.<sup>3</sup>

<sup>1</sup> Marx is referring to the "Bund der Kommunisten." The history of that organization and an account of the relations of Marx and Engels to it may be found in Engels' preface to Karl Marx, *Enthüllungen über den Kommunistenprozess in Köln* (Nottingen-Zürich, 1885), pp. 3-17.

<sup>2</sup> Karl Marx, Herr Vogt (London, 1860), pp. 35, 42.

<sup>3</sup> Engels' preface to the *Communist Manifesto*, English edition (Chicago, Chas. H. Kerr and Company), p. 8. This conception of the economic interpretation of history was for the first time adequately formulated by Marx a decade after the appearance of the *Manifesto* in his *Zur Kritik der politischen Oekonomie*, published in 1859. Those passages are so important, that we quote them here in full: "In the social production which men carry on, they enter into definite relations that are indispensable and independent of their will; these relations of production correspond to a definite stage of development of their material powers of production. The sum total of these relations of production constitutes the economic structure of society—the real foundation, on which rise legal and political superstructures and to which correspond definite forms of social consciousness. The mode of production in material life determines the general character of the social, political and spiritual processes of life. It is not the consciousness of men that determines their existence, but, on the contrary, their

And it is not merely for explanation of the past that we are to look to the mode of production and exchange; for these processes now determine and will continue to determine all our intricate social relations, all our ideal conceptions. In the hollow of their hand lies our fate: they have decided upon our past and they will settle our future. The conditions and contingencies of social production have divided society into classes, and all the history of hitherto existing society is a history of class struggles.

Freeman and slave, patrician and plebeian, lord and serf, guildmaster and journeyman, in a word, oppressor and oppressed, stood in constant opposition to one another, carried on an uninterrupted, now hidden, now open fight—a fight that each time ended either in a revolutionary reconstruction of society at large or in the common ruin of the contending classes.<sup>1</sup>

The modern “bourgeois” society has grown up on the ruins of the feudal society. The discovery and colonization of the new world, trade with the East Indies and the general development of the means of exchange gave to commerce and indus-

social existence determines their consciousness. At a certain stage of their development, the material forces of production in society come into conflict with the existing relations of production, or—what is but a legal expression for the same thing—with the property relations within which they had been at work before. From forms of development of the forces of production these relations turn into their fetters. Then comes the period of social revolution. With the change of the economic foundation the entire immense superstructure is more or less rapidly transformed. In considering such transformations the distinction should always be made between the material transformation of the economic conditions of production, which can be determined with the precision of natural science, and the legal, political, religious, aesthetic or philosophic—in short ideological—forms in which men become conscious of this conflict and fight it out. Just as our opinion of an individual is not based on what he thinks of himself, so can we not judge of such a period of transformation by its own consciousness; on the contrary, this consciousness must rather be explained from the contradictions of material life, from the existing conflict between the social forces of production and the relations of production. No social order ever disappears before all the productive forces, for which there is room in it, have been developed; and new higher relations of production never appear before the material conditions of their existence have matured in the womb of the old society.” Karl Marx, *A Contribution to the Critique of Political Economy*, English translation by N. S. Stone, pp. 11, 12.

<sup>1</sup> *Communist Manifesto*, p. 12.



try an impulse never before known. The feudal organization of society was too narrow to hold within its limits modern industry and commerce even in their infantile stages. The feudal restrictions were burst asunder. The rule of the aristocracy was pushed aside and the modern bourgeoisie took its place in political life. The bourgeoisie as a class has played a most revolutionary rôle. Just as conservation of the old mode of production was the condition of existence of the feudal society, so constant technical improvement, constant advance, constant revolutionizing of the instruments of production have become capitalism's very breath of life.

The bourgeoisie has disclosed how it came to pass that the brutal display of vigor in the middle ages, which reactionists so much admire, found its fitting complement in the most slothful indolence. It has been the first to show what man's activity can bring about. It has accomplished wonders far surpassing Egyptian pyramids, Roman aqueducts and Gothic cathedrals; it has conducted expeditions that have put in the shade all former exoduses of nations and crusades.<sup>1</sup>

The constant revolutionizing of production is accompanied by an uninterrupted agitation and disturbance and is followed by a constant change in social conditions—a circumstance which distinguishes the capitalistic era from all other epochs in human history. No frozen relations, no venerable prejudices for our age! Prejudices have no chance to become rooted, opinions have no chance to ossify. They are swept away before they are antiquated in this whirlwind of industrial progress. Industry has lost its national character. The need of larger markets chases the capitalist over the surface of the globe; it forces him to settle everywhere, to establish connections everywhere. On pain of extinction it compels nations to drop their ancient traditions and to adopt the capitalistic mode of production and the bourgeois conception of the world. Cheap commodities batter down all Chinese walls, and the bourgeois creates a new world after his own image. Class issues and class struggles are therefore losing their national character, they are becoming as cosmopolitan as the bourgeoisie and its capitalist mode of produc-

<sup>1</sup> *Communist Manifesto*, pp. 16, 17.

tion. The capitalistic centralization of means of production is also centralizing the scattered population: it has brought the laboring masses into towns. The extensive use of machinery has stripped work of all its individual character; the laborer's personality fades in the factory, where he becomes a mere appendix to the machine during the day; nor can his sense of separate existence be cultivated in the dingy tenement house quarters, where he is packed for the night. The more readily, therefore, do these multitudes merge into one solid class, the proletariat, conscious of its separate class existence, with tasks, aims and destinies widely different from the bourgeoisie, the class that owns the means of production.

The bourgeoisie, being, as we have seen, a highly progressive class, finds itself involved in constant political struggles. In the early stages of its development it has to fight with the aristocracy for political supremacy. Later on it finds itself involved in a struggle with those portions of the middle class whose interests have become antagonistic to the progress of industry. In all these struggles the bourgeoisie has to appeal to the laboring class, to the proletariat, for help and support. Thus the laboring class is drawn into the political arena. There it is supplied with the elements of political education—weapons which are destined to be turned against the ruling class.

But that is not all. The very progress of capitalistic production and accumulation increases the numbers and the political strength of the proletarians and depletes the ranks of the natural defenders of capitalism. Property makes for conservatism; but industry and commerce rapidly destroy the property of the small tradespeople, shopkeepers, handicraftsmen and farmers. All these are doomed to sink into the proletariat, partly because they have not sufficient capital for the scale on which modern industry, commerce and agriculture are carried on, partly because they are swamped by the competition of large capitalists, partly because their special skill is rendered worthless by modern methods of production. These proletarians, instead of rising with the progress of industry, sink deeper and deeper. In the past, we are told by the authors of the *Communist Manifesto*, the oppressed classes, in order that the op-

pression might continue, had their existence assured; they also had a chance to rise and thus raise their own class. The serf in the period of serfdom managed to raise himself to membership in the commune; the burgher under feudal rule developed into the modern bourgeois. The proletariat, we are informed, has no such chances.

The modern laborer, on the contrary, instead of rising with the progress of industry, sinks deeper and deeper below the conditions of existence of his own class. He becomes a pauper, and pauperism develops more rapidly than population and wealth. And here it becomes evident that the bourgeoisie is unfit any longer to be the ruling class in society, and to impose its conditions of existence upon society as an overriding law. It is unfit to rule, because it is incompetent to assure an existence to its slave within its slavery, because it cannot help letting him sink to such a state that it has to feed him instead of being fed by him.<sup>1</sup>

Capitalism is not only threatening the very life of the proletariat, it is undermining its own existence. Capitalistic society is rapidly approaching a complete cataclysm. Modern society, having called into existence unparalleled means of exchange and gigantic means of production, is like the sorcerer who can no longer cope with the powers of the nether world which his incantations have conjured up. For decades we have been witnessing a distinct rebellion of the modern forces of production against the conditions of production, *i. e.*, property conditions, property relations. This rebellion finds expression in the periodical return of that modern epidemic, the commercial crisis, which is threatening more and more the whole bourgeois society. And all the misery that accompanies such a crisis is due to overproduction. The masses of the people are in want of the means of subsistence because too much has been produced! The forces of production let loose, spurred by wild competition, are here fettered by the narrowness of the bourgeois property relations.

As a matter of fact [writes Engels], since 1825, when the first general

<sup>1</sup>Communist Manifesto, p. 31.

crisis broke out, the whole industrial and commercial world, production and exchange among all civilized peoples and their more or less barbaric hangers-on, are thrown out of joint about every ten years. Commerce is at a standstill, the markets are glutted, products accumulate, hard cash disappears, credit vanishes, factories are closed, the mass of the workers are in want of the means of subsistence, because they have produced too much of the means of subsistence; bankruptcy follows upon bankruptcy, execution upon execution. The stagnation lasts for years; productive forces and products are wasted and destroyed wholesale, until the accumulated mass of commodities finally filter off, more or less depreciated in value, until production and exchange gradually begin to move again. Little by little the pace quickens. It becomes a trot. The industrial trot breaks into a canter, the canter in turn grows into a headlong gallop, a perfect steeplechase of industry. And so over and over again. We have now, since the year 1825, gone through this five times, and at the present moment (1877) we are going through it for a sixth time.<sup>1</sup>

The conquest of new markets and the more thorough exploitation of the old ones do but pave the way for more extensive, more destructive, more formidable crises.

In these crises the whole mechanism of capitalist production breaks down under the pressure of productive forces which the existing society can neither utilize nor harness. Thus capitalism stands convicted of incapacity further to direct these forces. The concentration of industry and of wealth, the proletarianization of the masses, the deterioration of the proletariat, the increasing virulence of class struggles in politics and the increasing disastrousness of commercial crises—what do these developments indicate but the rapidly approaching cataclysm of the capitalistic mode of production? And what do they herald but the expropriation of the means of production by society as a whole?

The concentration of industry is already socializing production. The old anarchic production is gradually disappearing. The producers on a large scale in a particular branch unite in trusts, determine the total production and regulate the price.

<sup>1</sup> Frederick Engels, *Socialism, Utopian and Scientific*, translated by E. Aveling (New York, 1901), pp. 41, 42; Kerr edition (Chicago, 1905), pp. 64, 65.

In these trusts, freedom of competition changes into its very opposite—into monopoly; and the production without any definite plan of capitalistic society capitulates to the production upon a definite plan of the invading socialistic society. Certainly this is so far still to the benefit and advantage of the capitalists. But in this case the exploitation is so palpable that it must break down. No nation will put up with production conducted by trusts, with so barefaced an exploitation of the community by a small band of dividend-mongers.<sup>1</sup>

While the concentration of industry goes on, the capitalist mode of production completes the transformation of the majority of the population into proletarians,<sup>2</sup> who under the penalty of their own destruction are bound to seize the political power and turn the socialized means of production into state property, thereby putting an end to their own misery, to the existence of a ruling class and to all class struggle. The final step will require a forcible overthrow of all existing social conditions. Let then the ruling class tremble before the coming social revolution. The proletarians have a world to gain and nothing to lose but their chains. The proletarians do not indulge in utopias. They are not concerning themselves with the details of the future socialist organization of society; when the time comes, the very conditions of production will determine the mode of distribution. All that the proletarians are called upon to do is to take a conscious part in the inevitable class struggle. Their victory is fore-ordained.<sup>3</sup>

These are the fundamental conceptions of Marxian socialism, of modern socialism, of so-called scientific socialism. This in the "common platform acknowledged," to use the phrase of Engels, "by millions of workingmen from Siberia to California." Let us look into these doctrines.

<sup>1</sup> Engels, *op. cit.*, New York ed., p. 44; Chicago ed., p. 69.

<sup>2</sup> *Ibid.* p. 48.

<sup>3</sup> "Die Aufhebung des Privateigentums an den Produktionsmitteln wird durch die ökonomische Entwicklung zu einer Notwendigkeit gemacht. Aber dieselbe ökonomische Entwicklung führt mit gleicher Nothwendigkeit die Produktionsweise herbei, die an Stelle der bestehenden treten wird und muss, und wer Augen hat zu sehen, kann ihre Keime heute schon, und zwar ziemlich emporgewachsen, erblicken." Karl Kautsky, *Grundsätze und Forderungen der Sozialdemokratie*, Erläuterungen zum Erfurter Programm (Berlin, 1892), p. 15.

## III.

Marxism, as we have seen, claims to have little interest in pious wishes. Its "fundamental proposition" is the economic interpretation of history.<sup>1</sup> In the light of this theory it examines contemporary economic tendencies, commercial crises, concentration of production, proletarianization of the masses, the class struggle, *etc.*, and comes to the conclusion that socialism, *i. e.*, expropriation of the means of production by the working class in the interests of society as a whole, is inevitable and certain. It does not imagine that a new organization of society can be forcibly introduced before society is ready for it. Marx categorically states that "no social order ever disappears before all the productive forces, for which there is room in it, have been developed; and new higher relations of production never appear before the material conditions of their existence have matured in the womb of the old society."\*

How could Marx make such a statement, and yet believe in the imminent breakdown of capitalism, with socialism speeding on its trail? The answer is that the economic interpretation of history had for Marx and Engels in the middle of the last century quite a different meaning from that which even the most ardent and orthodox socialists can possibly give to it to-day. An incident narrated by Liebknecht in his reminiscences of Marx may serve as an illustration:

Marx, all flushed and excited, told me that during the last few days the model of an electric engine drawing a railroad train was on exhi-

<sup>1</sup> Engels himself calls the economic interpretation of history the "fundamental proposition." That it is the fundamental proposition is of course evident from the whole system. Yet in Professor Le Rossignol's recent book on *Orthodox Socialism* we read: "And if it could by any possibility be shown that socialism, as a system of thought, is utterly untenable, the true socialist would retreat to his last stronghold, and say that socialism, in the last analysis, is not a system of thought, but a process of social evolution, a law of the industrial world irresistibly moving on toward its final destiny" (p. 5). What this author means by Marx's "system of thought" is not made evident; but it is clear that he fails to see that the economic interpretation of history underlies the Marxian system. It is this interpretation of history that furnishes the Marxian socialist with the "process of social evolution," which is not his last, but his first and last stronghold.

\* Marx, *A Contribution to the Critique of Practical Economy*, translated by N. I. Stone, p. 12.

bition in Regent Street. Now the problem is solved—the consequences are indefinable. In the wake of the economic revolution the political must necessarily follow, for the latter is only the expression of the former.<sup>1</sup>

And poor Liebknecht could not sleep that night, for he saw the revolution coming. The model on Regent Street was to him a Trojan horse, which the bourgeois society was leading in suicidal blindness into the citadel. Now the fate of capitalism was settled! That was in July 1850. "And to-day is 1896, the beginning of April," adds Liebknecht sadly. This incident gives an idea of the tempo in which Marx believed that social readjustments are bound to follow economic changes, the tempo in which all the "superstructures" of legal and political nature, all the "ideological" expressions of human consciousness are dragged and driven by the material forces of production. In his belief the body of law that corresponds to a certain mode of production becomes not only antiquated but meaningless and invalid as soon as the mode of production changes. Marx did not express this merely as an academic proposition, he made it his defence when charged with agitating an armed rebellion. Before the court and jury of Cologne he pointed to the Code Napoléon and declared it to be no more binding than a stack of waste paper. It had lost for him its validity, because the economic conditions, to which it gave expression, had ceased to exist.\* A social revolution was therefore imminent. In the

<sup>1</sup> Liebknecht, Karl Marx, Biographical Memoirs (Chicago, 1906), p. 57.

\* "Die Gesellschaft beruht aber nicht auf dem Gesetze. Es ist das eine juristische Einbildung. Das Gesetz muss vielmehr auf der Gesellschaft beruhen, es muss Ausdruck ihrer gemeinschaftlichen, aus der jedesmaligen materiellen Produktionsweise hervorgehenden Interessen und Bedürfnissen gegen die Willkür des einzelnen Individuums sein. Hier, der Code Napoléon, den ich in der Hand habe, er hat nicht die moderne bürgerliche Gesellschaft erzeugt. Die im 18ten Jahrhundert entstandene, im 19ten fortentwickelte bürgerliche Gesellschaft findet vielmehr im Code nur einen gesetzlichen Ausdruck. Sobald er den gesellschaftlichen Verhältnissen nicht mehr entspricht, ist er nur noch ein Ballen Papier. Sie können die alten Gesetze nicht zur Grundlage der neuen gesellschaftlichen Entwicklung machen, so wenig als diese alten Gesetze die alten gesetzlichen Zustände gemacht. Aus diesen alten Zuständen sind sie hervorgegangen, mit ihnen müssen sie untergehen. Sie verändern sich notwendig mit den wechselnden Lebensverhältnissen. Die Behauptung der alten Gesetze gegen die neuen Bedürfnisse und Ansprüche der gesellschaftlichen Entwicklung ist im

autumn of 1850, in the magazine *Die neue Rheinische Zeitung*, Marx states with assurance: "A new revolution is possible only in consequence of a new crisis. *The former, however, is as certain as the latter.*"<sup>1</sup> The crisis came and the crisis went, but there was no sign of a revolution. This tends to show that no matter how great a discovery, how true a doctrine the economic interpretation of history may be, it is not an altogether safe instrument for social forecasts. In 1895, in his preface to Marx's *Klassenkämpfe in Frankreich*, Engels acknowledged the fact that he and Marx had altogether underestimated the strength and vitality of capitalistic society. "History has proven that we, and all that have thought similarly, were wrong. History has made it clear that the state of economic development on the continent was far from ripe for the abolition of the capitalistic mode of production."<sup>2</sup>

For a prognosis of the future the economic interpretation of history is available only when the economic factor is the only one with which we have to deal, when the other factors of social life are but feeble reflexes of the forces of production—*naturae naturatae*, to use Spinoza's expression—wholly incapable of exerting any independent influence. Then indeed the social organism is very simple, and social science can be reduced to a social mechanics. Did Marx actually carry his theory so far as this? As early as 1852, in *The Eighteenth Brumaire of Louis Bonaparte*, he acknowledges the power of traditions:

Man makes his own history, but he does not make it out of whole cloth; he does not make it out of conditions chosen by himself, but out of such as he finds close at hand. The traditions of all past generations weigh like an Alp upon the brain of the living.<sup>3</sup>

Grunde nichts anders als die scheinheilige Behauptung unzeitgemässer Sonderinteressen gegen das zeitgemässe Gesamtinteresse." Karl Marx vor den Kölner Geschworenen (Berlin, 1895), p. 15.

<sup>1</sup> "Eine neue Revolution ist nur möglich im Gefolge einer neuen Krisis. *Sie ist aber auch ebenso sicher wie diese.*" Gesammelte Schriften von Karl Marx und Friedrich Engels, 1841-1850, Bd. III (Stuttgart, 1902), p. 468.

<sup>2</sup> Karl Marx, *Die Klassenkämpfe in Frankreich, 1848-1850*, mit Einleitung von Friedrich Engels (Berlin, 1895), p. 8.

<sup>3</sup> Karl Marx, *The Eighteenth Brumaire of Louis Bonaparte*, translated by Daniel De Leon (New York, 1898), p. 5. Of course the German word *Alp* should have been translated "nightmare."



But while such concessions can be found in Marx's writings, his interpretation of history was from the beginning rigidly and harshly economic. In later years Engels had to confess that he and Marx were partly responsible for the fact that their followers sometimes laid more stress on the economic side than it deserved.<sup>1</sup> He admits that all the so-called ideological superstructures exert an influence and are in constant inter-reaction. The economic cause is but their original and perhaps very remote source. But still the economic factor is the predominant one. Thus Engels wrote in 1894:

It is not that the economic situation is the cause, in the sense of being the only active agent, and that everything else is only a passive result. It is, on the contrary, a case of mutual action on the basis of the economic necessity, which in the last instance always works itself out.<sup>2</sup>

In the same letter Engels still further widens and modifies the economic interpretation. The geographical basis is included in economic relations, and "race is itself an economic factor."<sup>3</sup> Again we are told that all "the political, legal, philosophical, religious, literary and artistic development rest upon the economic. *But they all react upon one another and upon the economic basis.*"<sup>4</sup> This conception of history is very far from

<sup>1</sup> "Dass von den Jüngern zuweilen mehr Gewicht auf die ökonomische Seite gelegt wird, als ihr zukommt, haben Marx und ich theilweise selbst verschulden müssen. Wir hatten, den Gegnern gegenüber, das von diesen geleugnete Hauptprinzip zu betonen, und da war nicht immer Zeit, Ort und Gelegenheit, die übrigen, an der Wechselwirkung beteiligten Momente zu ihrem Recht kommen zu lassen. Aber soweit es zur Darstellung eines historischen Abschnitts, also zur praktischen Anwendung kam, änderte sich die Sache und da war kein Irrthum möglich. Es ist aber leider nur zu häufig das man glaubt eine neue Theorie vollkommen verstanden zu haben und ohne weiteres handhaben zu können, sobald man die Hauptsätze sich angeeignet hat und das auch nicht immer richtig. Und diesen Vorwurf kann ich manchen der neueren 'Marxisten' nicht ersparen, und es ist dann und wann auch wunderbares Zeug geleistet worden!" This letter is dated September, 1890, and was first published in *Der sozialistische Akademiker*, October, 1895. It is here quoted from Masaryk, *Philosophische und soziologische Grundlagen des Marxismus* (Wien, 1899), p. 104.

<sup>2</sup> Letter in *Der sozialistische Akademiker*, quoted in Woltman, *Der historische Materialismus* (1900), p. 249. A portion of the letter is also reprinted in Seligman, *The Economic Interpretation of History* (New York, 1902), pp. 64, 65.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.* The italics are mine.

the original contention of Marx and Engels. It is doubtful whether this economic interpretation is methodology's last word, but it has stood its ground well. Scholarly criticism, like that of Stammer, Seligman and others, has considerably broadened and modified the theory but has not overthrown it.

The paramount importance of the economic factor in history has been practically conceded, but whether this new method will transform history into an exact science is exceedingly doubtful. One of the obstacles in the way of scientific history is the general desire of men for unscientific history. What social science can tell us with tolerable accuracy, *viz.*, the broad, general changes in humanity's methods of work, in its conceptions and its institutions, does not satisfy us. It is life in terms of life that attracts us. We want books like *The True Portraiture of His Sacred Majesty King Charles I in His Solitudes and Sufferings*; we want to hear all about the personal life and influence of every mistress of Louis XIV; we want all the actors and puppets of history depicted and analyzed. It is scientifically impossible, but the impossible has to be done. *Vox populi, vox Dei*. Accordingly, the historian revivifies dead heroes and tells us more about them than he could truthfully state about his next-door neighbor, often more than he actually knows about himself. In doing so, however, the historian makes no freer use of his imagination than the theologian, the philosopher, the sociologist, or any talkative scientist in his particular branch of knowledge. Mephisto might have addressed them all:

Is it the first time in your life you're driven  
To bear false witness in a case?  
Of God, the world, and all that in it has a place,  
Of man, and all that moves the being of his race,  
Have you not terms and definitions given  
With brazen forehead, daring breast?  
And, if you'll probe the thing profoundly,  
Knew you so much—and you'll confess it roundly!  
As here of Schwerdtlein's death and place of rest?

Quite so! And yet among the traits that humanity cannot

lose without losing its identity are the "brazen forehead and daring breast"—in other words, the aspiration to know, to understand, to comprehend. Our conceptions have varied, so has our knowledge, but never our desire. The effort of thought and imagination to go beyond the limits of knowledge is only a part of our constant endeavor to overcome by intellect our physical disabilities. There are, in the history of such efforts, partial failures more inspiring than our most signal successes. A place of honor among such partial failures belongs to Marx's economic interpretation of history. It was an attempt to make an exact science of our past, to solve the problems of the present and to disclose to us with scientific precision our future. We have seen that the method has already lost the extreme simplicity which constituted its chief youthful charm. It is no longer simply economic; the independent power and influence of our traditions, our political and religious convictions and our various ideologies have been recognized; and no method has been discovered to measure quantitatively the forces of these ideal powers, either absolutely or in relation to the basic economic factor. Under these circumstances and in view of the complexity of the forces that must be taken into account, no scientific prognosis of our future is possible. In a general way we can of course discuss the probable political or social consequences of our present economic tendencies. There is nothing to hinder prophecy, but there is also no guaranty of its fulfillment. It has already been pointed out that the economic interpretation of history is of great value in analyzing the underlying conditions of a given historic epoch. Engels' amendments to the original formulation of the economic interpretation are so broad that it has entirely lost its original character of a cook-book recipe for making history. Even its name may be a misnomer, since traditions weigh and ideals count, and both modify the economic basis. But at least this much of it remains—its demand for a strictly realistic, consistent, causally connected history. In dealing with a social movement, a political event or a type of culture, the historian must causally explain its genesis. He cannot beg the question simply by appealing to some inborn traits and characteristics of the given decade or the given na-

tion. These traits and characteristics must themselves be causally explained. But no explicit directions can be given for connecting a particular situation or event with particular precedent conditions or events. This is left to the judgment, discrimination and intuition of the historian. Of two historians, therefore, both adhering to the same method, one may prove himself an imbecile, the other a genius. The application of the method remains an art.

This is well illustrated by some of the writings of Engels. Here for instance is his explanation of the Protestant Reformation:

The bourgeoisie, for the development of its industrial production, required a science which ascertained the physical properties of natural objects and the modes of action of the forces of nature. Now up to then science had but been the humble handmaid of the church, had not been allowed to overstep the limits set by faith, and for that reason had been no science at all. *Science rebelled against the church; the bourgeoisie could not do without science, and, therefore, had to join the rebellion.*<sup>1</sup>

So "bourgeoisie" and "science" are responsible for the Protestant revolt. That is both new and startling! The exact date of the appearance of the "bourgeoisie" is nowhere definitely given by Marx or by Engels, but as to its approximate date they leave no doubt. In the *Communist Manifesto* we are told that the rule of the bourgeoisie has lasted "scarce one hundred years,"<sup>2</sup> and that during the French Revolution the bourgeois epoch was still only "impending."<sup>3</sup> It therefore appears that the bourgeoisie was shaking Rome and remodeling religion some three hundred years before its epoch arrived. Still more remarkable is the activity attributed to science in the period of the Reformation. Science in the sense of Marx and of Engels did not then exist. Nor, in the pre-Reformation period, was there anything like the later conflict between science and

<sup>1</sup> Engels, *Socialism, Utopian and Scientific* (Chicago, 1905), p. xx. The italics are mine.

<sup>2</sup> *Communist Manifesto*, Kerr edition, p. 20.

<sup>3</sup> *Ibid.* p. 59.

religion. There is no case on record in which the Church of Rome, before the Reformation, seriously interfered with learning. It had none of the organs of suppression which it later developed in such abundance. There was no *index expurgatorius*, and before the fifth Lateran Council there was no censorship of books. All new learning as a matter of fact was patronized by the worldly court of Rome. A certain amount of heresy was there considered a sign of good breeding. The air of Rome before the Reformation was certainly a great deal freer than that of Wurtemberg and Geneva after the Reformation. The statement, therefore, that the Reformation was in its essence a rebellion of science against the church is ludicrous. There are no facts to support it.<sup>1</sup>

Neither the bourgeoisie nor science had anything to do with the Reformation. Nor was it a religious issue at the outset, but,

<sup>1</sup> It is singular that Engels should not have perceived that the Protestant revolt was susceptible of a more direct and more plausible economic interpretation than that which he selected. Cf. Henry C. Lea, "The Eve of the Reformation," in *The Cambridge Modern History*, vol. i (New York, 1902), ch. xix, pp. 653-692. As a matter of fact the first to give an economic interpretation of the revolt was Luther himself. One has only to read his address, *An den Christlichen Adel Deutscher Nation von des Christlichen Standes Besserung*, to see that the Reformation was largely a protest against the fearful economic exploitation of Germany by the Church of Rome. Luther writes, for example: "Wie kommen wir Deutschen dazu, dass wir solche Räuberei, Schinderei unserer Güter von dem Papst leiden müssen? . . . Ich erachte, das deutsche Land giebt jetzt weit mehr gen Rom dem Papst dann vor Zeiten den Kaisern. Ja, es meinen etliche, dass jährlich mehr denn dreimalhunderttausend Gulden aus Deutschland gen Rom kommen, rein vergebens und umsonst, dafür wir nichts denn Spott und Schmach erlangen; und wir verwundern uns noch dass Fürsten, Adel, Städte und Stifter, Land und Leute arm werden—wir sollten uns verwundern, dass wir noch zu essen haben! . . . Hängen wir mit Recht die Diebe, und köpfen die Räuber, warum sollten wir freilassen den römischen Geiz, der der grösste Dieb und Räuber ist, der auf Erden kommen ist oder kommen mag. . . . Da ist ein Kaufen, Verkaufen, Wechseln, Tauschen, Rauschen, Lügen, Trügen, Rauben, Stehlen, Prahlen, Hurerei, Büberei. . . . Es ist nichts mit Venedig, Antwerpen, Kairo gegen diesen Jahrmarkt und Kaufhandel zu Rom. . . . Zuletzt hat der Pabst zu allen diesen edeln Handelsgeschäften ein eigen Kaufhaus aufgerichtet, das ist des Datorius Haus zu Rom. Dahin müssen alle die kommen, die dieser Weise nach um Lehen und Pfiründen handeln. . . . Hast du nun Geld in diesem Hause, so kannst du zu allen den gesagten Stücken kommen, und nicht allein dazu, sondern allerlei Wucher wird hier um Geld redlich, alles gestohlene, geraubte Gut gerechtfertigt. . . . O, welch eine Schätzerei und Schinderei regiert da, dass es offenbar wird, dass alle geistliche Gesetze allein darum gesetzt sind, dass nur viel Geldstricke würden, daraus man sich muss lösen, wenn man ein Christ sein soll."

as Mr. Henry C. Lea has pointed out, an economic issue.<sup>1</sup> In the famous indictment of the papacy by Ulrich Hutten, addressed to Leo X in 1517, there is not a single word about faith or doctrine. His "whole *gravamen*," as Mr. Lea observes, "consists in the abuse of power—the spoliations, the exactions, the oppression, the sale of dispensations and pardons, the fraudulent devices whereby the wealth of Germany was cunningly transferred to Rome."<sup>1</sup>

One cannot read the contemporary documents without being aware of the fact that the Protestant Reformation was a political revolution, chiefly incited by an economic grievance. It was a refusal of tribute to a foreign power. Mr. Lea shows that before the Reformation the most Catholic and orthodox states, like Spain and France and the Italian cities, were constantly on the verge of revolt against the papacy, and this on account of financial exactions, although there was also much complaint of interference in the administration of justice. All these symptoms and warnings, however, had no effect on Rome. The Curia continued to act as if the Decalogue had been intended to serve as a source of revenue for Rome. Its venality became proverbial. Even Æneas Sylvius, before he became pope, had no scruple, as Mr. Lea informs us, in asserting that everything was for sale in Rome, and that nothing was to be had there without money. The most popular books of the time, like the *Stultifera Navis* of Brandt and the *Schelmensunfft* of Thomas Murner, were savage attacks on Rome. Murner is never tired of dwelling on the scandals and exactions of the clergy from high to low, from bishop to monk. When the lord, he tells us, has shorn the sheep, the priest comes and fairly disembowels it. The invention of printing aided greatly in making the opposition to Rome European, in fusing local grievances into a general discontent and hostility. When Luther hung up his theses on the church door of Wittenberg, they were read and known a month later in every school and convent of Europe.

The Protestant revolt started in Germany, because this country was politically weak and therefore more exposed to Rome's

<sup>1</sup> Lea, *loc. cit.*, p. 667.

rapacity. In France and Spain the kings were able to resist the demands of the Curia with some measure of success; in Germany the emperor had no corresponding power. "In 1521 the papal nuncio Aleander writes that, five years before, he had mentioned to Pope Leo his dread of a German uprising; he had heard from many Germans that they were only waiting for some fool to open his mouth against Rome."<sup>1</sup>

The financial exactions and venality of the Curia caused the Protestant revolt. That is Mr. Lea's explanation of the event. Here also we have an economic interpretation of history; but how different is the story from that told by Engels!<sup>2</sup>

<sup>1</sup> Lea, *loc. cit.*, p. 690.

<sup>2</sup> Extraordinary is also Engels's economic interpretation of predestinarianism. Calvin's doctrine of predestination, Engels informs us, "was the religious expression of the fact that, in the commercial world of competition, success or failure does not depend upon a man's activity or cleverness, but upon circumstances uncontrollable by him. It is not of him that willetth or of him that runneth, but of the mercy of unknown superior economic powers; and this was especially true at a period of economic revolution, when all old commercial routes and centres were replaced by new ones, when India and America were opened to the world, and when even the most sacred economic articles of faith—the value of gold and silver—began to totter and break down." Engels, *Socialism, Utopian and Scientific*, pp. xxi, xxii. As a matter of fact, however, the doctrine of predestination antedates considerably Calvin's writings and Engels's commercial routes. Compare, for instance, Romans viii, 30: "And whom he foreordained, them he also called: and whom he called, them he also justified: and whom he justified, them he also glorified." Engels could find the whole doctrine of predestination in St. Augustine's *De libero arbitrio*, in the fourth century, or in Scotus Erigena's *De predestinatione*, in the ninth century, or in St. Thomas's *Summa theologiae*, in the thirteenth century, to say nothing of the writings of earlier religious thinkers. In defense of Engels's statement it might be urged, that the doctrine of predestination, however ancient its formulation, did not get its hold on the people before the commercial development of the sixteenth century, with its many bankruptcies, had prepared the popular mind for such a doctrine. It is true that predestinarianism did not become popular before the sixteenth century. But on the other hand it is not in commercial Venice and Genoa, but in countries very backward economically that the doctrine first came into vogue, *e. g.*, in Scotland and in New England. Here again Engels's interpretation fails to interpret. The spread of predestinarianism in the wake of the Protestant revolt seems to me easily comprehensible without any such forced explanations. The writings of the early churchmen, as we have seen, are full of predestinarianism. The mediæval church, however, could not possibly make a basic doctrine of it, for the simple reason that, if men and women were predestined to be saved or damned, then all the pardons and absolutions which the Church might sell were of very doubtful value. One of Germany's distinguished theologians, Johan Rucherath of Wesel, who was a predestinarian, drew

Marxian socialism calls itself "scientific socialism" because of its economic interpretation of history. With the help of this method it claims to unveil to us the real story of the past; with the help of the same method it claims to reveal to us the future. Serious as are the difficulties which an analysis of the past at times presents, its data are certainly more tangible than the events of the future. Engels's story of the Protestant Reformation shows that his method does not automatically produce a scientific history of our past. Is it then reasonable to suppose that the same method insures infallibility when the future is concerned?

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(*To be continued.*)

precisely these conclusions. Such conclusions interfered with the business of the church, and he was compelled to recant in 1479. The leaders of the Reformation, as we know, had a profound contempt for "works" as they saw them practiced. It seemed unreasonable to Luther that salvation should depend upon the "works" which he had such abundant opportunity to observe, and we see him turning to salvation by faith. Calvin, similarly detesting the "works" of the Romanists, took another road of opposition—predestinarianism. The doctrine of salvation by faith and the doctrine of election alike emphasized the opposition of the reformers to the purely technical character of the "works" required by Rome. Brilliant are Dr. Bush's references to the practical reasons which led two such contrasting centuries as that of Augustine and Calvin to determinism. "If a large part of the system of ideas known as Augustinian was invented in the fifth century to prove the necessity to man of the official ministrations of the church, it was adapted in the sixteenth and seventeenth centuries to prove the futility of those ministrations. How should the sacraments play any part in a man's salvation if this is a matter decided by the direct election of God? How should some words spoken by a priest control the action of grace? For precisely opposite reasons to those which influenced Augustine, the Augustinian determinism became a dogma of the Reformation; in the one case determinism to prove the necessity of sacraments, in the other to prove the futility of sacraments." Wendell T. Bush, "Sub specie æternitatis," in *The Journal of Philosophy, Psychology and Scientific Methods*, vol. iv (1907), p. 660.



## PROTECTION AND THE FORMATION OF CAPITAL

**T**O an economist imbued with the doctrines of the classical school nothing seems more inexplicable and disheartening than the vitality of the "protectionist fallacy." That protectionism should dominate practical politics is of course not at all extraordinary. Well-organized, free-handed practical interests naturally prevail in politics over frugal, disinterested science. What is rightly disturbing to the free-trade theorist is the defection of the thousands of young men who, as college students, have been taught to weigh the unseen disadvantages of the restrictive policy against its apparent advantages. Why is it that after a few years of active business life the college free-trader becomes a practical protectionist?

Must we believe that this apostasy from sound doctrine is due to the fact that in business life the college alumnus finds that his practical interests are bound up with the protective system, and that he changes his theories accordingly? In some cases this is no doubt true. Nevertheless, I believe that as a rule the college-bred business man is quite able to distinguish between his own interest and that of the body politic, and quite frank enough to admit that these interests may at times conflict.

The true explanation of the phenomenon to which I have alluded is, I think, that active business men are guided by a theory of the effects of protection which is neither so definite nor so fatuous as the hypothetical theories which teachers of political economy expose to the ridicule of their students. What this theory is it would be difficult to ascertain directly, even from those business men who are willing to state their views formally and at length. It would be equally difficult to learn, from an ethical discourse by the average man, what the popular theory of right and wrong really is. If, however, we examine a series of popular ethical judgments, we are likely to find that they imply a tolerably sane and systematic theory of right and wrong. From the fact that the business man defends his pro-

tectionist views with arguments that were exploded a century ago, we are not justified in assuming that no tenable theory underlies his attitude. Rather, we should note his judgments, and endeavor to deduce the theory implicate in them.

The modern protectionist will readily accept the following judgments as truly his own :

Protection should be accorded, as a right, only to branches of industry capable of rapid development. Rapidity of development of an industry under protection is *prima facie* evidence that the policy of protection is expedient. So long as rapid development continues, protection should not be withdrawn.

Protection of manufactures is in general far more promising than protection of agriculture.

Protection, when accorded, should be on a liberal scale. It should offer decidedly more than bare compensation for the disadvantages under which the domestic industry labors.

Given equal potentialities of development, an industry which has few natural disadvantages to overcome should be given the preference over an industry which labors under many disadvantages. But an industry with large potentialities of development, even if generous and long-continued duties are necessary for its maintenance, is to be preferred to an industry of small potentialities which is quickly rendered self-supporting. That an industry may never become wholly self-supporting—*i. e.*, able to maintain itself in the face of foreign competition—is not a sufficient reason for withholding protection from it.

It will be seen that the “infant industry” argument is implied in the foregoing judgments. This argument alone, however, would hardly justify the emphasis laid upon protection to manufactures, as contrasted with protection to agriculture. Further, the measure of protection that would be sufficient to make possible the introduction of a new industry would be regarded by the practical protectionist as far too meagre. Again, the “infant industry” argument can not serve as a defense of protection of industries that will never become self-supporting. In effect the working theory of the practical protectionist involves a more liberal measure of protection, a longer continuance and a broader

extension of the policy than the "infant industry" argument could possibly justify.

How far the "home market" and the "diversification of industry" arguments enter into the business man's view I am not rash enough to attempt to determine. The former, however, was invented chiefly for the edification of producers of export agricultural products; the latter for that of the working class. The business man's theory more naturally connects itself with the "theory of productive powers"; and it is upon one feature of this somewhat vague theory that I intend to lay emphasis. The protective system is most frequently commended by business men on the ground that it has rendered possible the accumulation of vast amounts of capital; tariff revision is feared because it destroys capital. Herein, I think, lies the kernel of the theory of the practical protectionist. His view of the laws governing the formation and maintenance of the social capital are fundamentally different from those of the free-trade theorist. In the opinion of the latter the capital which is employed to equip a new industry, rendered possible through protection, is merely diverted from other branches of industry. In the creation of this capital protection plays no part. The practical protectionist, on the other hand, regards the capital employed by a protected industry as mainly a new creation—a net addition to the productive wealth of a nation. My purpose in writing this paper is to consider whether there is an element of truth in this view. If there is, it is obvious that many of the accepted views on protection will need revision.

## I

That additions to the capital of a nation must come from its annual income may be accepted as self-evident.<sup>1</sup> That the income of a nation will, at a given time, attain its maximum under perfect freedom of trade is a proposition that admits only rare exceptions. Each nation possesses a number of

<sup>1</sup> Capital imported into a nation is, in a sense, an exception to this rule. For the purposes of the present paper it is not necessary to take account of such imported capital.

opportunities of varying productiveness for the employment of its labor and capital. If, in thought, we arrange these opportunities in a series, according to their respective degrees of productiveness, we may safely assume that an expanding fund of labor and capital will occupy these opportunities in the order of their productiveness. Under perfect freedom from all governmental interference in industry, the poorest opportunity exploited at a given time will be superior to any opportunity left unexploited. Any unexploited opportunity may, it is true, be rendered profitable from the view-point of private enterprise through the grant of a bounty from the state or through an artificial enhancement in the price of goods resulting from the imposition of a protective duty. In either case a burden must be placed upon the incomes derived from the better natural opportunities in order to induce men to occupy themselves with the less favorable opportunities. Since men engaged in the industries which are thus in need of the public bounty encounter natural disadvantages, it follows that their net gain through the bounty must be less than the burden entailed upon other members of the nation. Such is the familiar argument that protection in any form necessarily diminishes the national income. Protectionist and free-trader must agree that in general the argument is irrefutable. There are rare cases in which protection may not have the immediate effect of reducing the national income, but no writer can dwell upon them without arousing the suspicion of disingenuousness.

Does it not, then, follow that the capacity of a nation to accumulate capital will be greater under free trade than under protection? In a sense it does. But does it follow that the accumulation of capital will actually be greater under free trade? This view is implied in most free-trade discussions; I have, however, been unable to find it anywhere so clearly expressed as in the following passage from Adam Smith:

The industry of the society can augment only in proportion as its capital augments, and its capital can augment only in proportion to what can be gradually saved out of its revenue. But the immediate effect of every such regulation [a protective duty] is to diminish its

revenue, and what diminishes its revenue is certainly not very likely to augment its capital faster than it would have augmented of its own accord, had both capital and industry been left to find out their natural employments.<sup>1</sup>

If all classes in society saved equal proportions of their incomes, it would follow of necessity that whatever tends to reduce the national income must reduce the annual addition to the fund of capital. If the various social-economic classes differed in respect to thrift, but were all adversely affected in the same degree by the adoption of a restrictive policy, it would follow with equal necessity that such a policy would retard accumulation. But in fact the disposition to accumulate capital varies widely in the different classes that compose a nation; and it is the essence of protection to alter the proportions in which the social income is distributed. At one time agriculture is burdened for the benefit of manufactures; at another time the reverse is true. At one time rents are raised through protection; at another time the business enterpriser is the chief beneficiary of the policy. We cannot, therefore, accept without further examination the view that protection and the consequent reduction of the social income must necessarily retard the accumulation of capital. Indeed, we can easily construct hypothetical cases in which the formation of capital would actually be stimulated by the very policy that reduces the aggregate social income. Whether such hypothetical cases are exceptions to be ignored or types to be dealt with by science is a question requiring candid consideration.

## II

In an earlier article <sup>2</sup> in this review I endeavored to show that, apart from purely individual differences in thrift, the tendency to save is affected by general economic and social conditions that enable us to group the members of a given society into more or less distinct thrift classes.

<sup>1</sup> *Wealth of Nations*, bk. iv, ch. iii.

<sup>2</sup> "Influences affecting the Development of Thrift," *POLITICAL SCIENCE QUARTERLY*, vol. xxi, no. 1, pp. 224-244.

Granted a surplus of income above mere physical needs, a man's economic situation prompts him to save in so far as it offers inducement for investment. His social situation prompts him to save in so far as the possession of capital is the readiest means of acquiring social esteem. Putting the same idea in negative terms, a man is not very likely to save if he knows of no investment that seems attractive to him; he is not very likely to save if the direct road to the esteem of his fellows lies through expenditures for consumption rather than through the acquisition of capital.

As I endeavored to show in the article cited, the most attractive form of investment, from a purely personal point of view, is the acquisition of tangible capital goods to be employed under one's own control. Such an investment gains additional attractiveness from the fact that it gives visible evidence of economic efficiency. Accordingly, those who are in a position to make such investments have the strongest incentive to save. These persons are the capitalist enterprisers who have not yet fully equipped their businesses with the capital goods that the existing state of technique requires. These enterprisers we may therefore place in our highest thrift class.

We may assign to a lower thrift class the men who live upon salaries or upon the returns from professional service. They have no ever-present means of investment; further, they are under the domination of fairly rigid standards of consumption. They must, however, make provision for disability or superannuation, since their standard of consumption is one which takes account of a long period of years. To a certain extent they are therefore forced to become capitalists.

In a yet lower class I should place those who derive their incomes from rents, interest on mortgages and bonds, dividends on stocks, *etc.*—the funded income class, to employ a favorite expression of the sociological economists. These also are in no peculiarly favorable situation to make new investments; they are likely to be subject to rigid standards of consumption, and, furthermore, they are under no compulsion to set apart a portion of their incomes for future needs. In the lowest class of all I place the great mass of workingmen, since they have the

least favorable opportunity for investment and are subject to the most tyrannical standards of consumption, which moreover, lay chief emphasis upon the present.<sup>1</sup>

When an industry has reached the acme of its development, in relation to the existing state of technique, the position of the independent capitalist-enterpriser becomes assimilated to that of the recipient of funded income. True, some enterprisers will expand their business, encroaching upon that of less capable competitors. Some will save part of their incomes and invest in other lines of business, just as some will gradually surrender their capital to persons not directly engaged in the industry. But, as a class, the enterprisers in the industry will maintain their capitals intact, while rising standards of consumption will absorb the annual income.

Accordingly we are justified in drawing a distinction between the capitalist-enterprisers engaged in an industry which quickly attains its full development, and those engaged in an industry which is capable of practically unlimited development. The former quickly reach a point where they pass from the highest thrift class to a lower one; the latter may never reach such a point. A class of agricultural enterprisers, for example, may in two or three decades obtain the full complement of capital goods that the existing state of technique requires and permits; a class of manufacturing enterprisers may not reach that point in half a century. A change in agricultural technique may postpone the point of full equipment for another decade; changes in manufacturing technique are likely to postpone the point of full equipment to a far more remote period. Thus we arrive at the conclusion—which is amply borne out by practical experience—that the richest and most enduring source of new

<sup>1</sup> The large sums deposited to the credit of workingmen in the savings banks may at first sight seem to disprove my contention that the working classes are prevented by their economic and social position from saving any considerable part of their incomes. It is, however, a well-known fact that the workmen who display the highest degree of thrift are the immigrants, who naturally find a margin between the American rate of pay and the standard of living that they brought with them. It can scarcely be doubted that the process of Americanization will gradually reduce this margin.

capital is the "profit" (interest and profit) of the manufacturing capitalist-enterpriser.<sup>1</sup>

### III

A practical tariff system can not bestow all its benefits upon a higher thrift class and impose all its burdens upon a lower one. A change in methods of transportation may expose to foreign competition an industry that has reached practically full development; and those who derive their incomes from that industry may have sufficient political influence to secure the enactment of laws for the protection of their vested interests. Thus protection has been invoked, in many of the countries of continental Europe, to check the inrush of cheap agricultural products from over sea. Such protection does little more than enable the landed aristocrat to maintain his accustomed scale of expenditures. Although it may preserve the peasant proprietor from a shrinkage of income, it does not place him in a position to accumulate much capital. Agricultural protection in Europe, then, does not bestow its benefits upon the highest thrift classes. In some cases protection may be employed to prolong the existence of forms of industry that have long since entered upon their decline. Thus protection in France, in the early part of the nineteenth century, served to postpone the final extinction of many forms of industry still in the handicraft stage. The benefits enjoyed by persons engaged in such forms of industry did not lead to any considerable accumulation of capital.

Nevertheless it can hardly be denied that the chief benefits of modern protectionism have been bestowed upon those engaged in capitalistic enterprise. In the latter half of the eighteenth century the chief beneficiaries of protection in England were the capitalist-manufacturers. Agricultural protection existed, indeed, but such protection had little effect upon the prices of agricultural products, as England was still an exporting coun-

<sup>1</sup> The profits of the merchant, under modern conditions, are an almost equally rich source of capital. There is of course nothing in manufacture as such to give it primacy in this respect. The economic and social influences affecting the merchant are analogous to those affecting the manufacturer. I have ignored the former, chiefly because his position, in regard to protection, is practically neutral.



try. Only after 1815 did the corn laws perceptibly affect agricultural prices,<sup>1</sup> and restrictions upon the importation of meat and live animals were of still less significance. Protection to manufactures was not limited to import duties alone. The restrictions upon exportation of wool also served to divert income from the agricultural to the manufacturing classes. It is true that as late as 1750 the woolen industry was still, superficially, in the handicraft stage. Nevertheless, the essential character of the industry was capitalistic, and we can not be far from right in assuming that the advantages gained from the restrictions upon the importation of woollens and the exportation of raw wool fell chiefly to the merchant-manufacturer. The commercial treaty with Portugal, again, represented a burden upon the funded income class, and a benefit for the rising manufacturers. The Navigation Acts, furthermore, had the effect of diverting income in large measure from static branches of production to the rapidly developing business of commercial shipping.

After 1815, it is true, protection in England had the reverse effect. Manufacturing industries were developing beyond the national boundaries; protection to manufactures was therefore of little avail. Agriculture, on the other hand, had much to gain through protection. In so far as the high prices of corn failed to raise wages, the working classes bore the burden of sustaining rents. In so far as the high prices of food raised the level of wages, the business of manufacturing was taxed for the benefit of the landlord. In the former case, income was diverted from one low thrift class to another scarcely higher in the scale. In the latter case income was diverted from a higher thrift class to a lower one. It is significant that a system of protection having this effect was not long allowed to stand.

In the United States protection, down to the present day, has meant little but the diversion of income from all other classes in society to the capitalist manufacturer. Every capitalist manufacturer has indeed been forced to contribute to the prosperity of other capitalist manufacturers. The farmer and

<sup>1</sup> Cf. Nicholson, *The History of the English Corn Laws*, p. 47.

the wage-earner, however, have alone been compelled to contribute without any immediate compensation. These classes alone have carried a net burden; the manufacturer alone has secured a net gain. Nowhere has this relation appeared more evident than in the case of producers of raw materials for export, forced to buy their supplies at home. It was natural that in ante-bellum days the slaveholder should feel that he was being taxed for the benefit of the Northern manufacturer. In recent years the relation has been obscured by the development of the home market. The situation, nevertheless, remains essentially the same.

In the case of the United States it is true that a rapidly developing agriculture has been taxed for the benefit of rapidly developing manufactures. Accordingly, there may be some question whether a lower thrift class has been forced to contribute to a higher one. Under free trade, nevertheless, agriculture in any particular community would quickly have attained to a state of full development, and thus would have ceased to give large incentive to thrift. When the slaveholder had his land fully equipped with slaves, he employed his surplus income in the purchase of consumer's goods. The conduct of the small farmer of the North was essentially similar. If, then, the burdens imposed upon agriculture retarded the formation of agricultural capital, such postponement of the point of full equipment did not, in the long run, seriously diminish the national accumulation. The impetus given to manufactures, which under modern conditions possess almost unlimited power of absorbing capital, must, of itself, have tended to accelerate accumulation.

Protection in Germany, down to the rise of the agrarian party, likewise favored the bourgeoisie. In France the peculiar customs of the agricultural population have placed it in the position of perhaps the highest thrift class. In that country agricultural protection has no doubt tended to increase accumulation. The high price of food doubtless contributes to the volume of *rentes* in French hands. In Italy, Russia, Japan, protection is to-day assisting in the creation of a class of capitalist manufacturers.

It is worth noting that in the long run protection in a demo-

cratic state must favor the higher thrift classes at the expense of the lower. In every state protection is essentially a minority interest. The export industries can gain nothing from the policy; industries that supply a purely local demand also gain nothing. It is easy to see that these two groups of industries must outweigh, in importance, the industries that would suffer under foreign competition. The number of persons whose real incomes are diminished by protection will almost inevitably exceed the number of persons whose incomes are enlarged by it. Hence nothing but superior leadership in practical politics and superior organization can make protection possible in the long run. It is because he is keenly alive to every opportunity of gaining increase in profits through political influence and is always ready to invest capital in creating political sentiment favorable to himself that the capitalist-enterpriser prevails over the aloofness of the funded income class, the divided counsels of the agricultural class and the preoccupation of the wage-earners in problems directly affecting the labor contract. It is true that in Germany, France and Italy the agricultural interests have been accorded a measure of protection. Nevertheless, one may be rash enough to predict that before many decades the commercial policy of those countries will be dictated by the capitalist-enterprisers, the bourgeoisie, as in England and in the United States.

#### IV

If it is true that the general tendency of modern protectionism has been to divert income from a lower thrift class to a higher one, we are justified in saying that there is at least a presumption that protective duties have played some part in equipping modern society with the vast stock of capital goods which it now possesses. For proof of this thesis we must have recourse to an analysis of the effects of protection upon capital formation in concrete instances. We must show that protection enables a given industry to equip itself with capital goods without at the same time reducing in equal degree the capital equipment of other industries.

Let us suppose that in a country which formerly imported its silk, a heavy duty is levied upon such fabrics with the object of

creating a silk-manufacturing industry at home. Men who had planned to establish themselves and their capitals in other lines of business are now induced to enter the silk industry. These men naturally avail themselves to a certain extent of the free capital already in existence in the form of banking capital; to a certain extent they draw to themselves a part of what we may call the natural increase of capital in the communities in which they live. In so far, then, we are dealing with a simple diversion of capital from one set of investments to another. The capital goods with which the new industry is equipped thus represent no net addition to the productive wealth of the country.

We are not, however, at liberty to assume that enough capital will be secured in this way to make possible the complete supplying of the domestic market with silk goods. A new industry is naturally speculative in its character; and the more conservative capitalist enterprisers are slow to enter it. The number of enterprisers who will take the risk of establishing silk mills will probably not be large; their credit, moreover, will probably be narrowly limited. In the nature of the case, the industry, even if it is apparently a success, will be undersupplied with capital. This means that capital will be more than ordinarily productive in the industry; it means further that the enterprisers as a class will be steadily endeavoring to secure more capital in order to expand their operations. Under the circumstances it is inevitable that a large proportion of the profits created by the industry will be reinvested in it. Here then we have what appears to be a net addition to the productive wealth of the country.

On the other hand, it must be admitted that the high price of silk goods, which is the true cause of the profits of the protected silk manufacturer, reduces the real income of those persons who consume silks. A fabric that cost one dollar under free trade now costs a dollar and a half. Since it is improbable that the consumers of silks will be able, through the use of cheaper grades or otherwise, to avoid paying a greater aggregate sum for silks under protection than under free trade, their power of purchasing other consumers' goods and their power to save are reduced.

Some of the consumers of silk goods spend practically their entire incomes for consumers' goods. If these are compelled to pay higher prices for silks, the accumulative power of society is not in the least reduced. Some consumers of silks, while saving part of their incomes, have a fairly definite sum set apart for current expenses. If one item in their consumption exacts a larger sum than formerly, other items are pared down so that the aggregate consumption remains the same. In this case also the accumulative power of the community is not reduced. Finally there may be a class having rigid standards governing the quantities and qualities of goods consumed, but no such standards governing the absolute amount of money to be spent. If these persons have incomes that more than suffice to command all the commodities entering into the standard of consumption, there is a surplus which may be saved. So far as such persons are concerned a rise in the price of silks means a reduction in the surplus for accumulation. It is obvious, however, that if this class exists, it is a very unimportant one. It is composed of those who refrain from spending only when they cannot think of anything they would like to buy. Accordingly we may say that the indirect influence of the duty on silks in checking accumulation is practically negligible, while the direct influence of the duty in stimulating accumulation is of decided importance. Silk consumers represent a distinctly lower thrift class than silk manufacturers.

We arrive at practically the same results if we select, instead of a commodity entering chiefly into the consumption of the well-to-do, a commodity entering chiefly into the consumption of the wage-earners. Assuming, as we have a right to do, that wages are more than sufficient for bare physical needs, there is little chance that the duties on goods consumed by the wage-earners will be shifted to any other class. Now, a large proportion of the wage-earning class saves practically nothing, whether real wages are high or low. Standards of consumption tend constantly to rise and absorb any surplus income that may appear. A duty borne by this part of the wage-earning class places no check upon accumulation. Another part of the same class follows a definite policy of saving. They set apart a cer-

tain amount each month or each year, perhaps in the form of insurance premiums, trade-union dues, instalments on houses, *etc.* Members of this class, when compelled to pay higher prices for some element in their consumption, buy less or poorer qualities of other things. So far as this class is concerned no check upon accumulation results from the duty. Finally, there is a class who save whatever they can after strictly necessary expenses have been met. In so far the indirect effect of the duty is to reduce the power of accumulation. In view of the frequent complaints of the lack of thrift of the wage-earner, we are justified in assuming that the last class is not a very important one, and that in the main the effect of the duty is to divert income from a lower thrift class to a higher one, and hence to give an impetus to the formation of capital. Whether the gain in national productive power is worth the cost is a question that naturally arises. It is, however, not pertinent to the present inquiry.

The case is somewhat more complicated when one of the higher thrift classes is burdened for the benefit of another. Barbed wire is a commodity which is used chiefly where agriculture is in a stage of rapid development. When an agricultural community becomes fully developed, the barbed wire fences are replaced by fences less unsightly and less dangerous. Accordingly we may say that a duty on barbed wire burdens one of the highest thrift classes—the independent farmer in a developing community. Under the circumstances the farmer saves whatever he possibly can, in order to improve his farm, and any increase in price of supplies represents a deduction from the sum that can be saved.

Yet the stage of rigid economy and rapid accumulation on the farm is, as has already been pointed out, a relatively brief one. We will put it at twenty years, under the most favorable circumstances—that is, when no burden of protective duties is imposed upon the farmer. With the burden of duties to bear, the farmer may need twenty-five years instead of twenty to reach the point where accumulation slackens. The contribution made to the national capital by an individual farmer is less under protection than under free trade for each year up to the

twentieth; after the twentieth year, accumulation is greater under protection than it would have been under free trade. In a nation having every gradation of agricultural development in its various sections, we may safely assume that the net effect of the protective taxes upon agriculture is rather to limit consumption than to check accumulation.

One industry of indefinite developmental potentialities may be taxed for the benefit of another in the same class. Thus protection may be granted to a developing manufacturing industry which produces materials used by another developing manufacturing industry. In this case the second industry may enjoy exceptionally heavy duties, to compensate it for the burden which it bears. But it may well be that it can not raise its prices to as high a figure as the duty would permit without seriously reducing its sales. In this case a net burden is imposed upon it, and the effect must be to check accumulation. The industry which produces materials, on the other hand, gains a net benefit, which must tend to encourage accumulation. In general, such a duty must be regarded as neutral, as may also a duty burdening a low thrift class for the benefit of another low thrift class. We may dispense with a further analysis of the latter class of neutral duties, because, as has already been pointed out, they are not likely to play a very important rôle in practical commercial policy.

An objection that will naturally arise in connection with the argument in this section now demands attention. I have admitted that the income taken by protective duties from one class exceeds the net income derived from the duties by another class. Let us say that the burden upon silk consumers amounts to ten million dollars. All this sum can not be a net gain to the silk manufacturer. The reason he needed protection was that the bare cost of production at home exceeded cost of importation. Part of the ten million must be used to cover this excess of cost. If the duty were "scientific"—that is, if the duty merely placed the silk manufacturer on an equal footing with the importer—the whole ten million would be required to cover this excess of cost. There would be no fund in the hands of the manufacturer from which to accumulate new

capital, while if the ten million had been left in the hands of the silk consumers some of it would have been saved.

All this is true. But one may safely challenge all the economists in the world to point to one instance of a "scientific" tariff. And in the nature of things there can be no such tariff. What manufacturers' association would conduct political campaigns, roll logs and otherwise exert itself for the mere privilege of being placed on an equality with the foreigner? What would be the object in establishing a new industry if it were to offer only ordinary profits—profits that might be secured from industries already existing? Practically, we may be sure that a large part of the ten million tax upon the silk consumers will be surplus revenue for the silk manufacturers, and we may also be quite sure that a large part of that surplus will be reinvested in the industry. And with the natural progress of technique in the industry the surplus for accumulation grows larger and larger.

It is true that if the protected industry operates under great natural disadvantages, as in the classic case of producing wine in Scotland, the burden upon the consumer will be so much greater than the net gain to the producer that, even if the former is extremely thriftless and the latter extremely saving, the net effect upon national accumulation will be unfavorable. But it is not the practice of enterprisers to demand, nor of statesmen to grant, protection for industries that labor under extraordinary disadvantages. Rather, the selection of industries for protection tends to be such that the greater part of the tribute exacted from the consumer is bestowed upon the producer in the form of profits, instead of being wasted in an insane struggle with refractory natural conditions.

## V

When a protected industry has attained to a stage of development in which it practically supplies the domestic market, a process of concentration naturally takes place, if technical conditions give the larger establishment a decided advantage over the smaller. While this process of concentration is taking place, the capital of the more successful enterprisers in the in-



dustry constantly augments. This increase in capital may represent, in part, only an absorption of capital formerly employed by enterprisers who have yielded up their independence. In some measure, too, it is offset by waste of capital fixed in the less successful establishments. For reasons that will later be given, this waste is not so formidable as it at first may seem, and we are justified in holding that the capital which is found for the extension of the operations of the better establishments is in the main a new creation, arising out of the profits that protection makes possible. This means that protection does not cease to encourage the formation of capital so long as the process of concentration continues.

From the fact that the larger establishment, in a given stage of the process, has an advantage over the smaller, men are easily led to believe that in the long run a single monopolistic enterprise must dominate an industry. There are reasons for believing that the greatest advantages from mere increase in size of establishments appear in the early stages of the process; that while a plant with equipment worth a million dollars has enormous advantages over a plant worth \$100,000, an establishment with plant worth \$10,000,000 possesses no such overwhelming advantage over its \$1,000,000 competitor. If this is true, we may assume that the process of concentration will continue until an equilibrium of competing power among the various surviving establishments is attained. Each establishment then holds possession of a definite market; each establishment maintains its plant intact, but refrains from making any extensions. Some of those who derive their income from the industry may extend their individual holdings of the capital invested in it; some may invest in other industries. It is clear, however, that the industry itself no longer serves to stimulate thrift. Those deriving their incomes from it hold a position analogous to that of the recipient of funded income. If the industry still receives protection, such protection, in effect, diverts income from other classes in society to a class which no longer has especial incentive to save.

Under modern conditions, however, long before the process of concentration has created an equilibrium of competing

power, and often even before the domestic market has been supplied, an artificial unity is created in the industry through combination. The formation of a monopolistic combination does not necessarily check at once the formation of capital. Indeed, the high profits arising partly from monopolistic manipulation of prices, partly from the economies of large-scale production, are likely to give a great impetus to the formation of capital. This new capital may be invested in an improved equipment for the monopolized industry, or it may find its way into other industries. Every student of American finance must recognize the importance of the additions to the fund of free capital arising from monopolistic profits. Nevertheless, when an industry is controlled by a monopoly it reaches the point of full equipment sooner than it would have done had no monopoly existed. Monopoly prices are high prices; monopoly supply is a limited supply. And to produce the smaller supply that will be taken at a high price a smaller investment is necessary. Furthermore, the income from monopoly profits, being tolerably constant through a long period of time, tends to fall into the class of funded incomes. Why should a man with a comfortable income from stock in a monopoly set aside part of it for the future? The monopoly will abide, and yield more liberal profits as society grows richer. It is obvious that standards of consumption can easily encroach upon monopoly incomes.<sup>1</sup>

An industry organized as a trust or a *Kartell* may not, however, content itself with the home market. While limiting output and maintaining prices at home, it may be reaching out to control foreign markets as well. In the domestic field its policy is controlled by the principles of monopoly; in the foreign field by the principles of competition. The high profits derived from the monopolistic prices paid by the domestic consumer afford a fund from which capital may be readily accumulated; the limitless field of the world market affords inviting opportunity for investment. The holder of stock in such an enterprise receives, along with his munificent dividends, an offer, on "insiders' " terms, of new stock issued to secure capital for the

<sup>1</sup> Cf. Clark, *Essentials of Economic Theory*, pp. 355 *et seq.*

development of a promising branch of the export trade. There are many and just objections to the practice of selling goods at monopoly prices at home and at competitive prices abroad. Yet it must be obvious that a monopoly that adopts this practice, instead of resting content with the profits from the domestic market, may be a powerful engine for the creation of a national capital.

## VI

There is, it must be admitted, an appearance of unreality in productive power that must be created and sustained by the social bounty. Will not the capital that comes into existence by virtue of a protective system melt away when once protection is removed? Or will the owners of that capital be able to transfer it to other uses when they can no longer control the commercial policy of the nation?

The problem involved is that of the persistence of capital. This is a problem of extraordinary complexity, which nevertheless is usually treated by economists as one of such simplicity that it needs no elucidation. For the present it is sufficient to suggest that no "reproductive power" in the material goods themselves will account for the persistence of capital, but that the true explanation of the phenomenon is to be sought in the persistence of purposes in the mind of the capitalist.

A man will make greater sacrifices to maintain intact a fund of wealth once acquired than he would have made to acquire that fund. In a class enjoying comfortable incomes from property it is the exceptional man who will add to his parent stock of wealth; it is also the exceptional man who will allow that stock to decay. If a man's funded income is impaired, he does not as a rule accept the loss passively, scaling down his capital fund in proportion to the shrinkage in his income. Rather, he makes an endeavor to restore his declining fortunes, sacrificing present comforts, if need be, to that end.

Let us suppose that an industry has reached the stage of development where it no longer offers inducement to accumulate capital, and that the duty which has sheltered its growth is to be removed. We will place the capital invested at \$50,000,000, and will assume that the standards of consumption of the

investors have risen to the point where they absorb practically the entire income. And, to add one more assumption, we will suppose that the duty is not unceremoniously stricken off the tariff list, but that it is gradually reduced, not disappearing altogether for, say, ten years. If the industry is one that can not exist without protection, those who have their capital invested in it are confronted with the necessity of transferring their capital to other fields, unless capital and income are to disappear at the end of the period of grace.

Some part of the capital equipment of the industry wears out each year, and the fund accumulated to replace it can be diverted to other fields. Possibly such salvage may amount to one-quarter of the capital; it can hardly be a larger proportion of the whole. If then investors in the industry are unwilling to be impoverished, they must reduce current expenditures and create a new capital from incomes that are, by hypothesis, declining. Some will of course fail to do this, but there can be little doubt that many will. Adding to such quasi-compulsory savings the amount of "salvage" described above, is it improbable that, say, \$25,000,000 will be carried over into other industries? How much or how little is of course an indeterminate problem; that some capital will thus be rescued hardly admits a doubt.

It will be observed that I have chosen for my example the most difficult case of all—one in which no part of the industry could survive the removal of the duty. In the course of nature few such industries are admitted to the fold of protected industries. In most cases, perhaps, the removal of the duty would result merely in a moderate shrinkage of funded incomes. And if ample time for readjustment were given, any reduction in national capital would in great measure be obviated through the savings of those whose economic position was endangered.

## VII

The foregoing argument may be summarized as follows:

The free-trade view that protection can not increase the wealth of a nation is tacitly based upon a theory of capital formation through an automatic process of accumulation of surplus income.

This theory is radically false. Large accumulations of capital are, as a rule, made only when a surplus of income above established standards of consumption appears in connection with favorable opportunities for investment. This conjunction of favoring circumstances is found only in the developing industry. It is the nature of protection to give rise to industries that for a long time remain in a stage of rapid development. It is then in the nature of protection to give a stimulus to the formation of capital—that is, to create one of the essential elements in national productive power.<sup>1</sup> We can not then say, as did the classical free-traders, that protection merely changes the form in which productive power manifests itself. How large a part of the existing productive power of the world is due to protection it is of course impossible to say. But one should not be regarded as heretical if he ventures to express the opinion that had all modern states maintained the policy of absolute free trade, the vast capitals of modern industry would have been unknown.

The bearing of our study upon economic history is obvious. Has it also a bearing upon present-day problems? It is probable that in many lines of American industry the work of protection in creating a capital is practically complete. Quite possibly the natural accumulation of capital in this country is now sufficient to supply the legitimate demands of expanding industry. Indeed, it may well be that the compulsory saving that a reduction in duties would entail would now prove a richer source of new capital than the fund diverted from consumer to producer. But in such countries as Italy, Russia and Japan, which are as yet very inadequately supplied with capital, the policy of protection is likely to prove a very efficacious means of economic development. In every country the time naturally arrives when protection ceases to stimulate capital formation.

What is the test by which it can be determined whether the protective system shall be abandoned? According to the

<sup>1</sup> It is not maintained that protection is the only means of creating the favorable conjunction of circumstances described. An improvement in the technique of production or of transportation may exert a similar influence. *Cf.* the rôle assigned to "invention" by John Rae, *Sociological Theory of Capital*, pp. 151 *et seq.*

academic neo-protectionists, duties should be abolished when the protected industries are in a position to meet foreign competition. According to the theory here put forth, the duties should not be removed until the protected industries cease to develop rapidly. Then the duty should be removed, whether the industry can meet foreign competition or not. A reasonable period of time for readjustment should, however, be given, in order that at least a part of the capital no longer required by these industries may be removed to other fields.

It may be said that the foregoing argument is animated by a capitalistic ideal, without scruple and without reserve. It appears to justify the burdening of those who live upon quasi-permanent and quasi-stationary incomes from property, and of those who live from the meager earnings of their daily labor—the cultured classes and the needy classes—for the benefit of those who are inspired by their economic situation with the ambition to save from profits in order to create capital that will yield further profits. It implies the sacrifice of present consuming power for the purpose of increasing future productive power, but it is the consuming power of one class that is sacrificed to the producing power of another class. All this is true. But one may honestly hold that a highly capitalistic state of society affords a higher level of social welfare than did the state of petty industry that preceded it. Even those who are most inclined to emphasize the evils of our capitalistic state admit that it is a necessary preparation for the better state which they claim will supersede it. If, then, rapid progress in the direction of a highly capitalized state involves costs, who shall say that the costs should not be incurred? The century-long debate on protection *versus* free trade has not, however, hinged upon questions of social justice, nor upon questions of higher values than national prosperity. Protectionist and free-trader have alike been inspired by capitalistic ideals. Each has placed as the highest good the material wealth of the nation. What I have tried to show is that in the main the policies advocated by the protectionist have been well designed to secure the object which he has had in view.

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## THE EARLY ENGLISH COLONIAL MOVEMENT

### II. *The economic theory of colonization*

IN addition to those settling in America, many Englishmen, who had no intention of leaving their homes, were keenly interested in the colonial movement. This large and heterogeneous body of men stimulated public opinion and was influential in securing the support of the Crown, without which the work could not have been undertaken. Many of these men had invested extensively in colonial enterprises, but, apart from their own personal interests, they had certain definite ideas as to the advantages that would accrue to their country from a policy of expansion. As has already been pointed out,<sup>1</sup> a number of them favored colonization as a remedy for over-population and social distress; but far more emphasis was laid on colonization as a means of quickening English commerce and of freeing England from what, according to the prevailing economic theories, was a dangerous dependence on rival nations.

English economic thought was dominated by mercantilistic doctrines, which laid an undue stress on the possession of the precious metals.<sup>2</sup> Gold and silver were looked upon as something apart and distinct from other commodities, as the very incarnation of wealth.<sup>3</sup> According to the prevailing economic creed, a country's welfare could be accurately gauged by its balance of trade. A favorable balance meant the importation

<sup>1</sup> POLITICAL SCIENCE QUARTERLY, vol. xxiii, pp. 83 *et seq.*

<sup>2</sup> "Since Moneys haue obtained the title of the sinewes of war, and the life of Commerce: I hope that the accumulating thereof may properly be called *The Prae-heminent study of Princes*, when the same is procured by Trade: which is the sole peaceable instrument to enrich Kingdomes and Common-weales." Malynes, *The Center of the Circle of Commerce* (London, 1623), preface, pp. A 2, 3.

<sup>3</sup> There was naturally some opposition to this crude, although popular, view. In 1625, it was asked: "Who gave Gold or Silver the Monopoly of wealth, or made them the Almightyes favorites?" Virginias Verger, in *Purchas* XIX, p. 232. See also Lescarbot, in *Purchas* XVIII, p. 232.

of metals and consequently prosperity; an adverse one implied economic regression.<sup>1</sup>

From this viewpoint there could obviously be no greater national advantage than the discovery of rich mines within the body politic. There was absolutely no likelihood of such an event in England, but attention was directed to America in the hope of finding there, as Spain had done, valuable mines. At the outset this hope was ever present, and the clause in all the charters reserving to the Crown a certain proportion of such metals discovered in the colonies was by no means merely a formal one.<sup>2</sup> Before actual settlement had proven the contrary, it was believed that the precious metals abounded in America; it was even asserted that gold was more plentiful there than was copper in England.<sup>3</sup> The efforts of the early colonists in Virginia were directed with disastrous results toward finding such commodities,<sup>4</sup> and it took a number of years to convince them that this quest was futile. In 1609, Hakluyt still cherished the idea that Virginia would prove a treasure-house of gold, silver and precious stones.<sup>5</sup> Others recognized from the beginning that these hopes were illusory,<sup>6</sup> and as the settlement of America progressed, this idea inevitably became ever less prominent, until ultimately it disappeared.

The discovery of mines was not the only means of increasing

<sup>1</sup> "If the Natiue commodities exported doe waigh downe and exceed in value the forraigne Commodities imported; it is a rule that neuer faile's, that then the Kingdom growe's rich, and prosper's in estate and stocke: because the ouerplus thereof must needs come in, in treasure." Misselden, *The Circle of Commerce* (London, 1623), p. 117.

<sup>2</sup> In 1584 Hakluyt said that unquestionably gold, silver, copper, pearls and precious stones had been found in America, and that such a share thereof as had been reserved to the Crown in Cabot's charter would amount to a considerable sum. Hakluyt, *Discourse*, p. 86. This portion usually amounted to one-fifth.

<sup>3</sup> Brown, *Genesis I*, p. 29.

<sup>4</sup> *Ibid.* I, pp. 105, 106.

<sup>5</sup> In "Epistle Dedicatorie" to "Virginia Richly Valued, by a Portugall gentleman of Eluas" (London, 1609; also in *Force IV*, no. 1). For similar opinions, see Brown, *Genesis I*, p. 268 and II, pp. 562 *et seq.*

<sup>6</sup> Already in 1583, Carleill expressed doubts as to the probability of obtaining these metals from America. Hakluyt VIII, p. 141. In his essay, "Of Plantations," Bacon called attention to the uncertainty of such hopes and to their demoralizing influence. Bacon, *Works* (ed. Spedding, Ellis and Heath), XII, p. 196.



a country's stock of precious metals. The same end could be attained by the systematic regulation of foreign commerce, and, with this object in view, the statesmen of the day sought to discourage the importation of foreign merchandize and to facilitate English exports. But the economic development and natural resources of England were such that it was absolutely impossible to refrain from importing a considerable quantity of foreign products. At the time in question, England's import trade consisted of four distinct branches. In the first place, there was the Baltic trade with Sweden, Russia, Poland and Germany, whence came the naval stores necessary for her shipping and the potash used in England's basic industry, the woollen manufacture. From the standpoint of national security and of economic growth, this trade was all-important. A stoppage of these supplies, either through war or through their control by a rival, would prevent England from putting a fleet to sea and would also retard the development of her merchant marine. A second important branch of the English import trade was that with southern Europe, whence came, in large quantities, wine, silk, salt, sugar and dried fruits. Some of these commodities were essential, but others were in the nature of luxuries; and consequently this trade was deemed less important than that to the Far East, which supplied England with dyes, saltpeter and the spices that alone rendered the winter's stock of food palatable. These Eastern products, formerly controlled by Portugal, were now monopolized by the Dutch, who sold them to England at enhanced prices. Finally, although the English fishery was not an insignificant industry, a large proportion of the fish consumed was caught by foreigners and bought from them. To the statesmen and economists of the day, it was patent that it would be a distinct national advantage if England were not obliged to purchase these commodities from foreigners. Those which were imported from the Continent and from Asia could not be produced on English soil, and the Dutch were so firmly intrenched in the fisheries in the waters adjacent to England that it was a difficult task to compete with them. A remedy, however, could be found by direct commercial intercourse with India, by the development of an English

fishing industry in America, and by the production of those commodities hitherto purchased from other European nations in English colonies.

This desire to free England from the necessity of purchasing from foreigners formed the underlying basis of English commercial and colonial expansion; it led directly to the formation of the East India Company and to the colonization of America. Furthermore, the advisability of such a movement was emphasized by the existing precarious condition of English commerce. In his famous *Discourse concerning Western Planting*, written in 1584, Hakluyt described in detail this state of affairs. All intercourse with the Barbary states was vigorously opposed by the Spaniards, who confiscated the English vessels and subjected their crews to the Inquisition, "chardginge them that they bringe armour, munition, and forbidden merchandise to strengthen the infidells, against these partes of Christendome."<sup>1</sup> Direct commercial relations with Spain itself were extremely dangerous, on account of the war with that country and Philip II's inveterate opposition to Protestantism.<sup>2</sup> Moreover, the comparatively new trade to Turkey was hazardous because of the Algerian pirates and the opposition of Venice; the French trade was declining owing to competition, to heavy taxes and to arbitrary government; while that with the Netherlands was injured by the prolonged struggle of the Dutch against Catholic Spain.<sup>3</sup> The trade with Germany and the Baltic countries was hampered by many factors. That to Germany was seriously interfered with by the withdrawal of the favors, which English merchants had hitherto enjoyed in that market, in retaliation for England's depriving the Hanse merchants of the privileges of the Steelyard in London.<sup>4</sup> Besides, Denmark not only imposed onerous charges on English vessels passing through the Sound,<sup>5</sup> but its control of this strategic waterway jeopardized English commercial interests in the Baltic. Finally, the new

<sup>1</sup> Hakluyt, *Discourse*, p. 13.

<sup>2</sup> *Ibid.* p. 14. Cf. pp. 17, 18.

<sup>3</sup> *Ibid.* p. 14.

<sup>4</sup> Cf. Cunningham, *English Industry II*, pp. 224-227; Ehrenberg, *Hamburg und England*, pp. 131-158.

<sup>5</sup> Hakluyt, *Discourse*, pp. 15, 16.

trade to Russia was already declining, owing to competition and to the fact the Muscovy Company no longer enjoyed its exemption from custom-duties in that country. This company, moreover, had to defray the expenses both of the Russian embassies to England and of those sent by England in return.<sup>1</sup>

During the three decades following Hakluyt's account, conditions did not improve, as is clearly shown in a conspicuously able pamphlet published in 1615, under the title of *The Trade's Increase*.<sup>2</sup> Its author looked with a gloomy eye upon English commerce, showing that the Russian trade had to a great extent been lost, while that to the Mediterranean had declined owing to the new trade route to India, the depredations of the pirates, and the competition of the Dutch—"the now Sea-herrs." Of the various remedies proposed for the relief of this precarious economic situation, that which found most favor was the adoption of a policy of colonial expansion.<sup>3</sup>

Thus the chief economic benefit that England expected to

<sup>1</sup> *Ibid.* p. 16. These statements are fully confirmed in Christopher Carleill's discourse of 1583. Therein attention was called to the fact that the Russian trade had cost the Muscovy Company a very large sum before it had become profitable, and that, at the time of writing, it had fallen "to very ticklish terms." This was due to many reasons: the fickleness of the Czar; Dutch competition; the cost of the embassies; the probability of a tribute being exacted in the Sound; the ill-will of the Easterlings. In addition, Carleill also pointed out how hazardous was the trade to Turkey, the Barbary states and Spain, and strongly recommended a diversion of English commercial interests to America. Hakluyt VIII, pp. 135-137.

<sup>2</sup> Harl. Misc. IV, p. 202. For England's trade to France, see Unwin, *Industrial Organization*, pp. 177, 178.

<sup>3</sup> As already noticed, Carleill used this argument. It was also the main idea in Hakluyt's discourse. The author of *The Trade's Increase*, however, suggested another remedy. He had some hopes that the Newfoundland fishery would develop satisfactorily, but he laid chief stress on the necessity of England wresting the control of the herring fishery from the Dutch. He wrote: "I cannot find any other worthy Place of foreign anchorage; for the Bermudas, we know not yet what they will do; and for Virginia, we know not well what to do with it." The former, he said, does not employ much shipping; and the latter is still in embryo, but it is "no Question, a worthy Enterprise, and of great Consequence, much above the Merchants Level and Reach." In view of the great expense, he thought that the London Company was to be commended for holding out so long, and he expressed the wish that all Englishmen would coöperate in the enterprise "to help to form and bring forth this Birth, not of an Infant, but of a Man; nay, of a People, of a Kingdom, wherein are many Kingdoms." Harl. Misc. IV, p. 209.

derive from colonial expansion was freedom from dependence on other European rivals, by obtaining direct access to the Far East, by the growth of the English fishing industry, and by the acquisition of fresh sources of supply. In other words, from the viewpoint of the state, it was to a great extent a movement designed to divert the four great branches of England's import trade from foreign into national channels. The exploring activity of the Elizabethan age was preponderantly devoted to finding a northern passage to China, India and the Spice Islands of the Pacific, by means of which England might obtain the exotic products of the East directly from her own subjects, and not at enhanced prices from the Portuguese and Dutch. This specific object led in 1600 to the formation of the East India Company, which maintained regular commercial relations with India by means of the Cape route. But in addition, this objective was very prominent in the colonial movement proper. But little was known of the interior geography of the continent, and for a considerable period America was regarded by many as a half-way house to the East. It was hoped that the occupation of American territory would give England an exclusive and short route to the Pacific. In 1583 and 1584, Peckham,<sup>1</sup> Carleill<sup>2</sup> and Hakluyt<sup>3</sup> called attention to the probability of such a result. This idea was also prominent at the time of the actual settlement, and it even retained its vitality for a number of years thereafter. In 1609 it was distinctly mentioned as one of the objects of the Virginia enterprise,<sup>4</sup> and it also occupied the minds of those entrusted with founding a settlement in New England under the charter of 1606.<sup>5</sup> In 1610 a report to the Spanish Council of State concerning English colonization stated that the English expected to find a passage from Virginia to the South Sea.<sup>6</sup> As late as 1623 George Sandys spoke of the probability of such a discovery,<sup>7</sup> and in the following year the colo-

<sup>1</sup> Hakluyt VIII, p. 140.

<sup>2</sup> *Ibid.* p. 112.

<sup>3</sup> Hakluyt, Discourse, pp. 108 *et seq.* <sup>4</sup> *Nova Britannia*, p. 22 (Force I, no. 6).

<sup>5</sup> Letter of George Popham, dated Sagadahoc, December 13, 1607. Brown, *Genesis* I, p. 146.

<sup>6</sup> *Ibid.* p. 397. A few years thereafter, William Strachey likewise mentioned this as one of the probable advantages arising from Virginia. *Ibid.* pp. 562 *et seq.*

<sup>7</sup> *Va. Mag. of Hist. and Biog.* VI, p. 243.

nizing company officially mentioned this as one of the advantages to be derived from Virginia.<sup>1</sup>

As the work of actual settlement in America progressed, the futility of this hope became patent, and England was forced to place sole reliance on the growth of her trade with India by the Cape route. In this way the colonial development proper was gradually divorced from the movement of commercial expansion in the Orient. Similarly, at the outset, one of the factors that gave a great impetus to the colonial movement was the desire to develop the English fishing industry. In the days of Elizabeth, the arch-enemy was Spain, which threatened England's national existence. In the succeeding era, that of the first two Stuarts, there slowly developed a consciousness of the fact that the United Provinces threatened to cramp England's development. The Spanish antagonism was largely political and religious; the Dutch rivalry was economic. In no respect was Dutch commercial supremacy more conspicuous and more galling to English pride than in the herring fisheries carried on in the waters surrounding England. Just as it had been recognized in the Elizabethan age that the mines of America constituted Spain's chief bulwark, so statesmen of the following era perceived that Dutch prosperity was founded on the herring fisheries.<sup>2</sup>

Fish constituted one of the chief elements of England's diet, but a large proportion of the quantity consumed was bought from foreigners, largely from the Dutch. According to Sir George Peckham, who wrote in 1583, English fishermen imported only one-third of the necessary supply.<sup>3</sup> As the Dutch were so firmly entrenched in the European industry, the attention of England was turned toward America as a means of remedying so disadvantageous a situation. With this object in view, it was urged that Sir Humphrey Gilbert's enterprise should not be allowed to remain barren, but that a colony be planted in Newfoundland.<sup>4</sup> In 1584, Hakluyt advised that possession be taken of this territory, and that England levy taxes on all foreign vessels fishing

<sup>1</sup> Virginia Co. II, p. 527; London Co. II, p. 265.

<sup>2</sup> Cf. Cal. State Papers, Domestic, 1625-1649, p. 6.

<sup>3</sup> Hakluyt VIII, p. 110.

<sup>4</sup> *Ibid.* Sir George Peckham.

there.<sup>1</sup> Similarly, as the regions to the south became better known, it was realized that here too could be developed an extensive fishery,<sup>2</sup> which might free England from her dependence on the Dutch. This desire to foster the English fisheries was an important underlying motive in the colonial movement. In the course of time it was seen, however, that the development of this English interest, both in Newfoundland and in New England, while necessitating an assertion of territorial sovereignty, was not contingent upon the settlement of large colonies in those countries, and that to some extent such communities interfered with the mother-country's direct interests in these industries. Hence gradually, as the settlement of America progressed, less stress was laid on this argument.

Just as it was anticipated that the colonial movement would free England from the necessity of purchasing Eastern products and fish from foreigners, so it was expected that America would furnish her with those commodities hitherto obtained from the Baltic and South European countries.<sup>3</sup> As this fundamental idea had important consequences both in shaping colonial policy and in directing the actual course of expansion, it will be advisable to examine its growth and development.

The colonial movement of the seventeenth and the commercial expansion of the preceding century were closely connected phenomena and were to a great extent based on the same motives. The attempts to find a northern passage to India were ultimately designed to free England from her dependence on the Portuguese.<sup>4</sup> Similarly, the main object of the large trading

<sup>1</sup> Hakluyt, *Discourse*, pp. 87, 88. Hakluyt said that 100 to 200 Spanish and Portuguese ships fished yearly at Newfoundland. *Ibid.* p. 48.

<sup>2</sup> *Cf.* Virginia Co. II, p. 527; London Co. II, p. 265.

<sup>3</sup> Thus Captain John Smith wrote: "Muscovia and Polonia doe yeerely receive many thousands for Pitch, Tarre, Sope, ashes, Rosen, Flax, Cordage, Sturgeon, Masts, Yards, Wainscot, Firres, Glasse, and such like: also Swethland for Iron and Copper. France in like manner for Wine, Canvas, and Salt; Spaine as much for Iron, Steele, Figs, Reasons, and Sackes. Italy with Silkes and Velvets consume our chief commodities. Holland maintaines itselfe by Fishing and Trading at our owne doores. . . . Then how much hath Virginia the prerogative of all those flourishing Kingdoms, for the benefit of our Land, when as within one hundred miles all those are to bee had, either readie provided by nature, or else to be prepared, were there but industrious men to labour." Purchas XVIII, pp. 437, 438.

<sup>4</sup> In his discourse on the north-west passage, written in 1576, Sir Humphrey Gilbert

companies—with the exception naturally of the Merchant Adventurers—was to procure foreign products on more advantageous terms.<sup>1</sup> This close connection between the commercial and colonial movements is well illustrated in the discourse that Captain Christopher Carleill wrote in 1583, in order to persuade the Muscovy Company to direct its efforts toward America. He admitted that at the beginning this trade would necessarily be insignificant, but he prophesied that in a short time “there may be well expected from thence no lesse quantitie and diversitie of merchandise then is now had out of Dutchland, Italie, France, or Spain.”<sup>2</sup> From the northern parts of America, Carleill said England would obtain the naval stores and other products of the Baltic countries and also fish; <sup>3</sup> from the southern and western parts could be procured wine, olives, salt and other commodities which England was accustomed to purchase from southern Europe.

What Carleill and his fellow-workers had in mind was not the establishment of new communities on American soil, but the erection of trading posts which would facilitate the purchase of these supplies from the native population.<sup>4</sup> As America be-

devoted an entire chapter to the consideration of “what commodities would ensue, this passage once discovered.” He laid great emphasis on “the wonderfull commodities which this discovery may bring, especially to this realme of England,” but he naturally did not ignore that there would also result an increased outlet for English commodities, especially for cloth. Hakluyt VII, pp. 185-189.

<sup>1</sup> Thus the fact “that divers Marchandize of the same Countries are very necessary and convenient for the use and defence of this our Realme of England” appears in the charter of 1585 to the Barbary Company as the chief motive that induced Elizabeth to grant the patent. Hakluyt VI, p. 420.

<sup>2</sup> *Ibid.* VIII, p. 140.

<sup>3</sup> Pitch, tar, hemp, masts, hides, furs, “without being in any sort beholding to a king of Denmarke, or other prince or state that shall be in such sort able to command our shippes at their pleasure, as those doe at this day, by meanes of their strait passages and strong shipping.” *Ibid.* p. 139.

<sup>4</sup> In 1583 also, Sir George Peckham advocated a similar extensive system of colonization, maintaining that America could furnish England with furs, silk, fish, fruits, wood, gold, silver, copper, lead, tin, jewels, naval stores, hemp, flax, dyes, feathers, etc. *Ibid.* VIII, pp. 115, 116. Similarly in 1584, Richard Hakluyt said “that this western voyadge will yeele unto us all the commodities of Europe, Affrica and Asia, as far as wee were wonte to travell, and supplye the wantes of all our decayed trades.” Hakluyt, Discourse, p. 19. From the northern parts of America, he said, England could obtain masts, ship-timber, pitch, tar, resin, soap-ashes and hemp; from the

came better known, this scheme of extensive colonization was seen to be impracticable, and it was recognized that Englishmen would have to settle permanently in America and to exploit its resources themselves. But the underlying economic idea remained unchanged; the colony was to be primarily a source of supply for the metropolis. In 1606, at about the time when the first Virginia charter was issued, a remarkably able paper was written in favor of the government aiding the work of colonization.<sup>1</sup> The author thereof starts with the assertion that all kingdoms are maintained by rent or traffic, especially by the latter; and that England depends on her shipping both for her trade and her safety. Her shipping, the argument continues, necessitates a supply of naval stores, which England cannot produce, and which she obtains "only by the favor of forraigne potency." Consequently the government should undertake the work of colonization, because, if England had colonies "able to furnish our wantes," our money and merchandize that now go to strangers would go to kinsmen, from whom in return we should receive what we need, and the ensuing trade would be in its nature more "home bread trafique than a forraigne exchange." In addition, this writer advances the typically mercantilistic view, that a state which either has sufficient for itself, or can export its natural products to pay for its imports, is most complete and wealthy. Obviously, this ideal status would be attained if the establishment of colonies in America should free England from the necessity of purchasing from her European rivals.<sup>2</sup>

southern parts, besides the advantages of the fishery, could be procured a miscellaneous lot of commodities, including the precious metals, sugar, silks, wines, fruits and salt. *Ibid.* pp. 37, 38. In addition, Hakluyt emphasized the importance to England of America's forests, for English timber was scarce. *Ibid.* p. 105. In Ralph Lane's letter to Hakluyt, dated Virginia, Sept. 3, 1585, it was stated "that what commodities soever Spaine, France, Italy, or the East partes doe yeeld unto us, in wines of all sortes, in oyles, in flaxe, in rosens, pitch, frankensence, corrans, sugers, and such like, these parts doe abound with the growth of them all." Hakluyt VIII, p. 319. Cf. also Thomas Heriot's account, *ibid.* pp. 348 *et seq.*

<sup>1</sup> Brown, *Genesis I*, pp. 36-39.

<sup>2</sup> This idea is prominent in a dispatch regarding the Virginia enterprise written in 1606 by the Spanish ambassador to his government. Therein he said: "They claim to be able to obtain from the country higher up than the Island of St. Helena, the



The same argument was prominently used in all the writings in favor of the Virginia enterprise.<sup>1</sup> In 1610 the colonizing company laid special stress on the fact that Virginia could provide England with supplies otherwise obtainable only "at the courtesie of other Princes, under the burthen of great Customs, and heavy impositions," such as copper, iron, steel, ship-timber, masts, cordage and soap-ashes.<sup>2</sup> In another official statement of the company, likewise of the year 1610,<sup>3</sup> the natural resources of Virginia were described with enthusiasm and in great detail. Especial attention was called to its wealth of forests, from which could be obtained potash, pitch, tar, lumber and masts; to its iron deposits, its furs, wines, dyes and drugs. Furthermore, it was asserted that Virginia was adapted to the production of oranges, sugar, rice, as well as of the other products of southern Europe, and that consequently in future these "may be supplied to us in our owne countrey, and by our owne industry."<sup>4</sup> In

same commodities as from Spain, because it is under the same latitude, so as not to be in need of it;" that is, so as not to need the products of Spain. Brown, *Genesis* I, p. 89.

<sup>1</sup> Thus, in 1609, in his sermon in favor of Virginia, Richard Crakanthorpe said that the colony was so rich and fertile that "besides the sufficiency it naturally yields for itself, [it] may with best convenience supply some of the greatest wants and necessities of these Kingdoms." Brown, *Genesis*, I, p. 256. Daniel Price, the author of a similar sermon, "Sauls Prohibition Staide," emphasized the same idea; after an extravagant enumeration of the commodities that might be expected from Virginia, he said the colony could furnish "whataoever commodity England wanteth." *Ibid.* I, p. 312. In the same year also Hakluyt said that cotton, silk and dyeing materials could be obtained from Virginia. *Virginia Richly Valued* (London, 1609), Epistle Dedicatorie. The same line of thought is also prominent in Crashaw's sermon of 1610. Brown, *Genesis* I, p. 363. Similarly, about 1612, Strachey asserted that Virginia would prove a source of naval stores "so dearely obteyned from the easterly Countries." *Ibid.* II, pp. 562 *et seq.*

<sup>2</sup> "A True and Sincere declaration of the purpose and ends of the Plantation begun in Virginia," in Brown, *Genesis*, I, p. 340. Later in the same document, assurance is given that the colony would furnish England also with wine, pitch, dyes, silk-grass and pearls. *Ibid.* p. 349.

<sup>3</sup> "A True Declaration of the estate of the Colonie in Virginia," in Force III, no. 1. See also Purchas XIX, p. 71.

<sup>4</sup> *Ibid.*, p. 21. In general it was claimed that Virginia would free England from the necessity of purchasing from her European rivals. It was asserted that Virginia could furnish England with caviar and oil, hitherto obtained from Russia; with sturgeon, hitherto imported from the East countries; with soap-ashes and potashes, which were becoming scarce in Prussia; with masts, naval stores, flax and hemp, whose

1620 also, the company claimed that instead of having to buy furs, cordage and caviar in Russia; masts, timber, pitch, tar, potash and hemp in Norway, Denmark, Poland and Germany; wine, fruit and salt in Spain and France; silk in Persia and Italy, England could obtain all these products from Virginia; and furthermore, that the colony could provide iron, dyes, drugs, cotton and sugar.<sup>1</sup>

The same basic idea was equally conspicuous in the arguments advanced in favor of the settlement of the territory north of Virginia. In 1622, the Council of New England called attention to the fact that this region could supply England with fish, furs, hemp, silk, naval stores, timber, and that, "in a word, there comes no commodity out of *France, Germany, or the Sound*, but may be had there, with reasonable labour and industry."<sup>2</sup> The pamphlets published in favor of the settlement of New England placed marked stress on its value as a new source of supply, especially of fish, timber and naval stores.<sup>3</sup> Especial emphasis was laid on the probability of New England

supply was endangered by the wars between Poland and Muscovy; with wines and fruits, hitherto imported from southern Europe. It was pointed out that this last trade was entirely at the mercy of hostile princes, "who for their proper utility devise all courses to grinde our merchants, all pretences to confiscate their goods, and to draw from us al marrow of gaine by their inquisitive inuentions." *Ibid.* pp. 22, 23. Similarly, the author of a pamphlet published in 1609 in support of the Virginia enterprise, wrote glowingly of the resources of the colony, of its forests, its mineral deposits, its rich soil. He claimed that Virginia could supply England with naval stores, timber, rice, sugar, dyes, drugs, wine, silk, potash, furs, fish, caviar, iron, copper, gold, silver, *etc.*—a heterogeneous list, which, if the prophecy had proven true, would have done away with the bulk of England's import trade from foreign countries. *Nova Britannia*, in Force I, no. 6, pp. 11-22. This argument was also fully developed in Virginia's *Verger* (1625), whose author enumerated the commodities that the colony could supply, such as timber, silk, wine, naval stores, *etc.*, for which "many thousands are yeerely expended to the profits of strangers." Consequently, he concluded: "Virginia inviteth our hopes . . . so that we shall save those treasures and costs that way expended, shall lesse depend on other Nations." *Purchas XIX*, pp. 245-251.

<sup>1</sup> "A Declaration of the State of the Colonie and Affaires in Virginia," in Force III, no. 5, pp. 1-4.

<sup>2</sup> A briefe Relation of the Discovery and Plantation of New England (London, 1622), p. 27; Baxter, *Gorges I*, p. 231.

<sup>3</sup> *New Englands Plantation* (London, 1630), pp. 7, 8, in Force I, no. 12; *The Planters Plea* (London, 1630), ch. iv, p. 15, in Force II, no. 3.

producing these stores, which, according to a writer of the day, were such "usefull commodities, that if wee had them not from other Countries in Amity with England, our Navigation would decline. Then how great the commodity of it will be to our Nation, to have it of our owne, let any man judge."<sup>1</sup>

It is thus clearly apparent that the chief advantage anticipated from a policy of territorial expansion was greater economic independence from foreign nations through the development of new sources of supply under the English flag.<sup>2</sup> The predominance of this idea was a direct consequence of the prevailing economic theories and of the conditions existing in England's foreign trade. This view was also strengthened by other factors. The native population of America was too sparse and too poor to furnish a large market for English manufactures, and it was realized that an Englishman who settled in America would not, merely by this fact, increase his powers of consumption. Furthermore, the colonial movement was financed by individuals who naturally desired some return on their investment.<sup>3</sup> This

<sup>1</sup> Thomas Morton, *New English Canaan* (London, 1632), pp. 43, 44, in *Force II*, no. 5. Cf. also pp. 45, 46, 58, 59, 64. On December 10, 1633, Emanuel Downing wrote to Secretary Coke that, if the Massachusetts Bay Company were allowed to enjoy the rights under their patent, "then shall this kingdome clearly gaine by the fruits of their labo<sup>r</sup>: that commodious trade of cordage, pitch and tarr." Coke MSS.

<sup>2</sup> In 1613, Robert Harcourt published a pamphlet in favor of founding a colony in Guiana, in which he stated that, in every foreign action, regard ought to be paid to three chief ends: the glory of God, the honor of the sovereign and the benefit and profit of the nation. He claimed that this enterprise would answer the last end, for "who can deny, but that our Country by this worthy Action may be enriched, through divers and sundry Commodities of great Worth, in those Parts daily found, and easily obtained?" *A Relation of a Voyage to Guiana* (London, 1613), in *Harl. Misc. VI*, p. 476. Purchas XVI, p. 402, omits this part of the pamphlet. That this idea was dominant is also evident from the writings of Gorges. When describing the benefits that foreign nations had derived from colonies, he emphasized the fact that valuable commodities had been obtained from them, and that it was their success which induced England to follow the lead of Spain and Portugal. Virginia, he thought, would prove useful, as it could produce flax, hemp, pitch and tar, if not sugar and cotton. New England likewise, according to Gorges, would prove advantageous in a number of ways, because of its rich soil, its mineral deposits and its furs. Gorges, *A Briefe Narration*, pp. 59, 60. Similarly, in a petition of 1641, the suitability of North America for colonization was demonstrated by the fact that it could produce silk, vines, cotton, tobacco, furs, timber, metals and naval stores. A Petition of W. C. exhibited to the High Court of Parliament, p. 6, in *Force I*, no. 13.

<sup>3</sup> Consequently the attention of those directing the settlements in America was

they could obtain only by the development of America's natural resources. In this way theory and fact reinforced one another, and, as a result, the colony was looked upon mainly as a source of supply, and its value was gauged by its conformity with this ideal.<sup>1</sup>

The idea that the colony was to be a source of supply implied, however, inevitably that it was also to be a market for English produce. One conception was the natural corollary to the other, and consequently the value of colonies as an outlet for the mother country's manufactures was by no means ignored. At the outset of the movement, a few decades before Elizabeth's death, when but little was known of America's native population, it was expected that trade with the Indians would develop a considerable market for English manufactures.<sup>2</sup> Thus in 1583, Carleill maintained that the colonization of America would result in "a very liberall utterance of our English clothes" and of other manufactures into a country larger than all Europe.<sup>3</sup> Similarly, in the following year Richard Hakluyt, after calling attention to the rigors of the North American climate, said: "Nowe if her Majestie take these Westernne discoveries in hande, and plante there, yt is like that in shorte time wee shall vente as great a masse of clothe yn those partes as ever wee did in the Netherlandes, and in tyme moche more."<sup>4</sup>

primarily directed toward finding out what could be shipped thence to England. Thus, in 1607, George Popham wrote from Sagadahoc that the natives affirmed that the country produced nutmegs, mace, cinnamon, pitch, Brazil woods, cochineal, ambergris, besides many other valuable products. Brown, *Genesis I*, p. 146. See also Gorges's letter of December 1, 1607, in Baxter, *Gorges III*, pp. 154-157.

<sup>1</sup> It was also recognized that if the colonies produced more than England could consume, this surplus could be exported to foreign countries and would appear as a credit item in England's trade balance. *Nova Britannia*, p. 16, in Force I, no. 6; Virginia's Verger, in Purchas XIX, p. 251. Similarly it was perceived that a colony which was supplied with manufactures by England and produced commodities not wanted in the mother country, might still be advantageous by exporting these products to foreign markets, where they would pay for supplies needed by England. Thus, in 1638, Gorges wrote to Secretary Windebank that the exports of fish and lumber from the American colonies to Spain, Madeira and the Canaries paid for commodities imported from these places into England. Baxter, *Gorges III*, pp. 287-291.

<sup>2</sup> In 1583, Peckham advanced this argument. Hakluyt VIII, pp. 111-112.

<sup>3</sup> Hakluyt VIII, p. 140.

<sup>4</sup> Hakluyt, *Discourse*, p. 41. See also pp. 36-42.

This argument<sup>1</sup> was less prominently used after the size and poverty of America's native population became better known. It was, however, never lost sight of,<sup>2</sup> and it was to some extent strengthened by the fact that England's European rivals were energetically striving to create national industries which would enable them to dispense with English manufactures.<sup>3</sup> The main emphasis was, however, not laid on this phase; that a new market would be opened for English manufactures was regarded merely as the natural sequel to the fact that the colony would be able to furnish England with commodities hitherto purchased from foreigners.<sup>4</sup>

It was also expected that the development of new sources of supply and of broader markets would result in a greater volume of trade, which in turn would imply an increase in England's shipping interests. As merchant ships were usually heavily armed and constituted an important part of the navy, it followed that colonization would increase England's sea power, upon which national security chiefly depended. This general line of reasoning was frequently used in the contemporary publications.<sup>5</sup> In 1584 Hakluyt complained that despite the Navigation Acts and the encouragement given to the fishery, the mercantile

<sup>1</sup> In a pamphlet published in 1609 in support of the Virginia enterprise, after an enumeration of the commodities obtainable there, it was stated: "But of all other things, that God hath denied that countrie, there is want of sheepe to make woollen cloth, and this want of cloth must alwaies bee supplied from England, whereby when the Colony is thorowly increased, and the *Indians* brought to our Ciuiltie (as they will in short time), it will cause a mighty vent of *English* clothes, a great benefit to our Nation, and raising againe of that auncient trade of clothing, so much decayed in England." *Nova Britannia*, p. 22, in Force I, no. 6.

<sup>2</sup> In 1610, it was advanced by the London Company. Force III, no. 1, p. 25.

<sup>3</sup> On account of these attempts, it was maintained in 1606 that England must "prepare a place fit for the vent of our wares." Brown, *Genesis* I, pp. 36-39.

<sup>4</sup> The same general argument was used in favor of colonization by Scotsmen. Thus, in 1624, Sir William Alexander wrote in connection with his proposed colony of New Scotland: "And where the *Scottish* Merchants before had no trade but by transporting Commodities that might haue beene employed at home, and oftentimes monie, to bringe backe Wine from *France*, and Pitch, Tarre, and Timber from the Easter Seas. Now only by exporting of men, Corne, and Cattle, they may within a little time be able to furnish back in exchange these things before named." *An Encouragement to Colonies* (London, 1624), p. 39, in Slatyer, Alexander, pp. 206, 207.

<sup>5</sup> See, e. g., Gilbert's *Discourse*, in Hakluyt VII, p. 187.

marine, "which is the strength of our realme," had decayed; he maintained that colonization would surely avert this evil, because the American voyages required large ships, and because Newfoundland could furnish England with naval stores.<sup>1</sup> Twenty-five years later, it was again asserted that England's shipping interest was declining, and that colonization was necessary to revive it.<sup>2</sup> In addition it was seen that, while colonization would result in increased sea power, this in turn implied greater ability to acquire and control colonies, for due recognition was given to the fact that a policy of expansion had to be based upon adequate naval strength.<sup>3</sup>

As a natural sequel it followed also that colonization would add to the general prosperity, and consequently that the national revenue would increase. This last factor was influential in gaining and retaining the support of the Crown. It was taken for granted that the dominions beyond the sea were to be outside the barriers of the English fiscal system, and that goods exported to the colonies, as well as those imported thence, would have to pay customs duties.<sup>4</sup>

The most potent and fundamental of the various economic reasons advanced in order to justify a policy of expansion was, however, the expectation of finding new sources of supply, in order to make England independent of foreign nations. At the very outset, there was a clearly defined tendency toward the creation of a self-sufficient commercial empire. It fol-

<sup>1</sup> Hakluyt, Discourse, pp. 89, 90. In 1583, Peckham used identically the same argument. Hakluyt VIII, p. 110. Cf. also Gorges, A Briefe Narration, p. 63; London Co. II, p. 265; Baxter, Gorges III, p. 293.

<sup>2</sup> It was pointed out that many English ships were being sold to foreigners, and that, for want of employment, English mariners were emigrating to foreign countries. Colonization, it was asserted, would remedy this condition and "make this little Northerne corner of the world, to be in short time the richest Store-house and staple for marchandize in all Europe." Nova Britannia, pp. 21, 22, in Force I, no. 6.

<sup>3</sup> Bacon said that Spain's "Greatness consisteth in their Treasure, their Treasure in their Indies, and their Indies, if it be well weighed, are indeed but an Accession to such as are Masters by Sea, so as this Axletree, whereupon their Greatness turneth, is soon cut in two, by any that shall be stronger than they by Sea." Considerations touching a War with Spain, in Harl. Misc. V, p. 91.

<sup>4</sup> In 1584, Hakluyt pointed out that, in addition to the customs duties, the Crown's revenue would be increased by the reservation of a portion of the precious metals, and by the imposition of a tax on all foreigners fishing at Newfoundland. Hakluyt, Discourse, pp. 86-88.

lowed that the course of colonization was directed toward regions most likely to answer this end. On the one hand this led to the formation of the East India Company; on the other, it led to colonial experiments in the North and in South America, as well as in the West Indies. Of the four great branches of England's import trade, the most vital was that with the Baltic countries, whence came the indispensable naval stores.<sup>1</sup> Consequently, the earliest and most strenuous efforts were devoted toward developing colonies that would be able to compete in these products with northern Europe. Accordingly, during the reign of the first two Stuarts, attention was mainly directed toward the colonization of the temperate regions in America that could supply pitch, tar and hemp.<sup>2</sup> As the attempts of the early settlers to produce these commodities were unmitigated failures, there developed toward the end of this period a marked tendency in favor of tropical colonization, by means of which England could obtain an abundant supply of exotic products, not only, nor even chiefly, for home consumption, but for export, to pay for commodities that England was forced to purchase abroad.

Finally, as far as colonial policy was concerned, there followed an important consequence from this view of the utility of colonies. Inasmuch as colonies were chiefly valued as sources of supply, and as the state assumed grave responsibilities in sanctioning the movement, it would have been considered the height of folly to allow the colony to send its produce to any place but the metropolis. Consequently, very early in the history of the Empire, it became the established custom to confine the colony's exports to the mother country, for otherwise the chief object of the government in permitting the movement would have been nullified.

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<sup>1</sup> In 1641, Sir Thomas Roe said in Parliament that this trade was "the Root of all others, because the Materials, brought from those Parts . . . are fundamental, and of absolute Necessity." *Harl. Misc.* IV, p. 415. In the report to Charles I on Canada, dated November 24, 1630, special stress was laid on its capacity to supply hemp, tar, pitch, masts and ship-timber. *Brit. Mus. Egerton MSS.* 2395, folio 19.

<sup>2</sup> This tendency was reinforced by the fact that the best fishery was also in this region.

## THE SEPARATION OF CHURCH AND STATE IN FRANCE<sup>1</sup>

THE new relations of church and state in France are slowly adjusting themselves. Now that the smoke of the battle is beginning to clear away, it may be possible to survey the field, to review the incidents that led up to the fight and to explain objectively and perhaps impartially the present state of things. To make the survey intelligible, it is necessary to examine successively the following points: (1) What were the legal relations between church and state prior to the law of December, 1905? (2) What cause, direct or indirect, remote or immediate, brought about the divorce? (3) How was the law of separation prepared and carried through Parliament? (4) How were the relations of church and state adjusted by the law of December, 1905? (5) What were the reasons of the church's opposition to that law? (6) What was the situation created by the church's opposition? (7) How does the new law of January, 1907, deal with the difficulties? (8) What is the outlook, at the present day, for both church and state in France?

### *I. Relations of church and state before 1905*

The régime which obtained until 1905 was established by the

<sup>1</sup>The principal authorities consulted in the preparation of this article are as follows: *Journal Officiel de la République Française*, which gives full reports of the proceedings of the Chamber and of the Senate, 1905-1907; Aristide Briand, *La Séparation des Églises et de l'État* (Paris, Éd. Cornély, 1905) and *La Séparation* (Paris, E. Fasquelle, 1908), the first of these publications being the report of the Committee on Separation, the second a collection of speeches delivered in the Chamber of Deputies by M. Briand; E. Combes, *Une deuxième campagne laïque* (Paris, Société nouvelle de librairie et d'édition, 1905), which contains M. Combes's addresses on the quarrel with the Vatican; and Eugène Réveillaud, *La Séparation des Églises et de l'État* (Paris, Librairie Fischbacher, 1907). M. Réveillaud is the deputy on whose initiative the Chamber decided to appoint a committee on the separation of Church and State (October 20, 1902); he is a prominent Protestant layman, of Catholic origin; and his book contains many of his speeches and a running commentary on the law.



law of April 8, 1802 (18 Germinal, an X). This law may be considered as composed of two parts: (1) the Concordat, a treaty concluded on July 15, 1801, between the first consul, Bonaparte, and Pius VII; (2) the Organic Articles regulating both the relations of the church with the state and the general internal policy of the church. While the Concordat was a treaty and the Organic Articles a law, both became laws of the land by the act of April, 1802. On the other hand, while the Concordat was a contract accepted by both parties and the Organic Articles a law imposed upon the clergy without having been officially ratified or even accepted by the church, in fact both were equally binding and were actually enforced until 1905.

At the same time other organic articles had been adopted, regulating the worship of the Protestants. Later, the decrees of March 17 and December 11, 1808, with supplementary provisions promulgated in 1831, organized the Jewish confession. Thus these laws and decrees provided for the practice, under state supervision and with state support, of three different religions, the Roman Catholic, the Protestant (Calvinistic and Lutheran) and the Jewish. The Protestant and Jewish denominations were no longer half tolerated, half persecuted sects whose legal status and very existence depended on the caprices of the government. They were, like the Roman Catholic church itself, part of the administrative fabric of the country. As to the Catholic church it was no longer, as under the ancient régime, a privileged organization with special endowments, special assemblies, special courts, exempted from the common burden of taxation and even entitled to levy taxes on the nation. Bonaparte made the Catholic clergy one of the subdivisions of his governmental staff, like the post-office employees and the custom officials in the United States to-day.

This régime had advantages which the clergy fully appreciated. It gave them the standing and prestige of officials, holding a definite place in the governmental hierarchy. It gave them the security that comes from regular salaries, which, though meager, were nevertheless acceptable, ranging from \$200 for country priests to \$3000 for archbishops. The state put at the disposal of the clergy the churches, the residences

for archbishops, bishops and priests, as well as the seminaries. These had become the property of the nation by the law of November, 1789, and have ever since been considered such by all French governments and by all the courts in the land.

These privileges and temporal advantages were balanced by some disadvantages. The state controlled all the appointments of the church. The archbishops and bishops were appointed by the government with the sanction of the pope. The bishops in turn appointed the priests, but only after consultation with the government.<sup>1</sup> Moreover the Organic Articles subjected the clergy to vexatious supervision and to humiliating regulations. Even the costume of the priests, the stockings of the bishops, the titles given to the various dignitaries, were fixed by the law, although these regulations were afterwards not strictly observed. Indeed the cassock worn by the priests to-day and the title of *monseigneur* assumed by the bishops were illegal, according to the letter of the law, which provided for an *habit noir à la française* and the title of *monsieur* or *citoyen*. The relations between the Holy See and the bishops and those of the bishops among themselves—the whole interior administration of the church—were strictly regulated by the government. No papal bull could be published in France, no assembly of bishops could be held, no new holidays established, no new church opened, no parish created, no new liturgy written, without the consent of the government.

This church, which was once half mistress of the realm, which, a generation earlier, could force the state to put anyone to death for an offence against the faith and make nonconformists and free-thinkers tremble before her, had now sunk into a pensioner of the state, a branch of the civil service, an *instrumentum regni*, or, as Bignon, Bonaparte's special interpreter expressed it, "a holy gendarmerie."<sup>2</sup> She was employed to keep order and discipline among the masses, to teach respect for the powers that be and to instil into the hearts of little children the

<sup>1</sup> Article 10 of the Concordat reads: "Bishops will appoint to parishes. Their choice can fall only on persons accepted by the government."

<sup>2</sup> Quoted by Taine, *The Modern Régime*, book v, p. 1.

same reverence for the emperor and his decrees as the catechism requires for God and his commands.

This régime lasted for a century, with a fortune that varied according to the character of the government. When the government was conservative, royal or imperial, the church had its own way, save for a few misunderstandings sure to occur between rival powers. All despotic governments, that of Napoleon III as well as that of Charles X, were conscious that they needed the support and good-will of this "gendarmerie." In 1877, however, when the government came under the control of the more radical republicans, difficulties arose. The republicans of all shades of opinions, divided on everything else, were unanimous on two points: (1) that the modern state should eliminate all traces of ecclesiastical influence from the machinery of government; (2) that the Roman Catholic church should be severely checked and repressed in all her efforts to influence the people in political affairs and to teach them doctrines inimical to the republic.

The watchword of this policy, "clericalism is the enemy," was given by Gambetta.<sup>1</sup> Jules Ferry as prime minister embodied its most essential features in legislation. A consistent and sweeping campaign of secularization was carried on between 1881 and 1903: schools were made undenominational, public prayers were abolished, participation of the army in religious processions was forbidden, divorce was legalized, hospitals were secularized, the exemptions of ecclesiastics from military service were suppressed, religious communities and sectarian schools were partly abolished.

The clergy, high and low, smarted under these blows. They forgot that this policy was only one of reprisals for their own attitude and in particular for their hostility to the republic. Through pastoral letters read from all the pulpits, and in the Sunday sermons, they attacked this "wicked policy"; they branded as unjust, unchristian, ungodly, the laws of the state; they threw themselves once more into the political arena, took

<sup>1</sup> This famous phrase was uttered at the end of a speech delivered May 6, 1877, before the Chamber of Deputies, in an interpellation on the "ultramontane intrigues." Hanotaux, *Contemporary France*, III, p. 602.

an active share in the elections, supported the opponents of the government and allied themselves with all the movements intended to overthrow the government. In the conspiracy of May 16, 1877, the Boulangist agitation of 1887-89, the Dreyfus craze of 1898-99, the connivance of the clergy is evident.

Of course this attitude of a subsidized clergy was the cause of incessant quarrels. The church could not help protesting against what she considered unjust laws; the state on the other hand was bound to repress, with such disciplinary weapons as it possessed, the acts of indiscipline and rebellion that bishops and parish priests were daily committing.

Thus the last thirty years of the Concordat régime were years of continuous strife. This tempestuous household with its daily bickerings, complaints and recriminations, its ineradicable incompatibility of temper, seemed ready for a divorce. How was this divorce brought about?

## II. *Direct and indirect causes of the separation*

A question that might pertinently be asked is: Why did the divorce not come sooner?

From the standpoint of the church it is obvious that her grievances, if she pleased to complain of them, were many and well founded. This dependence on a state that was no longer friendly and respectful, as it used to be, but distrustful and hostile, was in itself humiliating. Imagine bishops chosen and appointed by ministers of worship who, if not atheists, were at best agnostics, and whose past record was often one of aggressive hostility to the church. And again this miserly stipend of eight million dollars, voted every year begrudgingly, carried with it a degree of governmental supervision which made it impossible for the church to manage its own affairs and to direct its own policy. The bishops were as closely controlled by their minister as the prefects by theirs. The assemblies of bishops held in 1906 and 1907 are novelties which were never dreamed of under the régime of the Concordat. Even during the Second Empire papal bulls had to be submitted to the ratification of the state before reaching the people, and in some cases, *e. g.* in that of the Syllabus of 1864, their publica-

tion was forbidden. Moreover, this régime of three subsidized denominations on equal footing, this "advertised, practical polygamy," as Taine called it,<sup>1</sup> this patronage in common more insulting than abandonment for a church that has the claims of the Church of Rome, must have been odious to all orthodox Catholics.

To the republicans, on the other hand, both as a matter of principle and a matter of expediency, the separation of church and state could not but seem the only natural solution of the difficulties between the two rival powers. In fact it was a part of the confession of faith of most progressive statesmen for the last hundred years. They all thought, in the words of Madison, written in 1784, "that pride and insolence in the clergy, ignorance and servility in the laity, in both superstition, bigotry and persecution had always followed church establishment."<sup>2</sup> And with Jefferson, writing in 1802 to the Danbury Baptist Association, they believed that religion is "a matter that lies between a man and his God, that he owes account to none other for his faith or his worship." All the great French liberals of the last century, among them some Catholics, held similar views. Their ideal was expressed in 1861 by the Piedmontese statesman, Cavour, in the famous formula: "A free church in a free state." Roman Catholics like Lamennais, Lacordaire and Montalembert, liberals like Lamartine, Laboulaye, Jules Simon and Edmond de Pressensé, progressist republicans like Gambetta and Jules Ferry, were for a time united in their hostility to that archaic régime. By common consent they considered it unjust, since it asked people without religious needs to support by their taxes a religion that they did not accept; contrary to the universally accepted principle of freedom of conscience, since it recognized some religions and not others; contrary to the principle of equality before the law, since it gave to members of some clergies a privileged treatment that was refused to other citizens.

Nevertheless, in spite of all the arguments that came from both

<sup>1</sup> Taine, *The Modern Régime*, book v, ch. ii, p. 53.

<sup>2</sup> Memorial and Remonstrance to the General Assembly of Virginia. Report of American Historical Association, 1901.

sides and seemed to militate against a régime that was no more logical than it was satisfactory, neither the Catholic party nor the republican party was willing to face that rupture which their mutual advantage seemed to require. The church was opposed to the denunciation of the Concordat because she enjoyed her golden servitude, with its regular stipend, state palaces, official recognition and public honors. The republican statesmen, even those of the anti-clerical school, when they were in control of the government, had two strong reasons of expediency for opposing the reform which they had advocated when they were in the opposition. In the first place they feared that the country, especially in the rural districts, was not ready for a reform so sweeping and a change so radical; in the second place they feared that freedom from state control would give the church a power that she would immediately use against the republic. Such was the opinion of Gambetta, Paul Bert and Jules Ferry.<sup>1</sup> Waldeck-Rousseau, a few months before he died, had written the outline of a speech which he did not deliver, pointing out the inadvisability of separation.<sup>2</sup> M. Combes himself came only slowly, after considerable hesitation and various public statements in favor of the maintenance of the Concordat, to the conclusion that church and state must sever their relations, since, as he claimed, the church took all the advantages and accepted none of the obligations of the compact of 1801.

Thus it was that the abrogation of the Concordat, while conceded to be logical, fair and in accordance with the whole policy

<sup>1</sup> Paul Bert, a well-known French physiologist and agnostic, minister of public instruction in the Gambetta cabinet, expressed his views on the subject in a famous report written in 1883. While absolutely in sympathy with the doctrines and hopes of those who advocated immediate separation, he stated nevertheless: "The consequences [of separation] would be, within thirty years, the control of the Catholic church over France. . . . Yes, the church deprived of state appropriation, driven from her parsonages and her churches but left entirely free, would soon recover a wealth which she absolutely lacks to-day and gain a political influence which she is losing more and more."

<sup>2</sup> In this posthumous speech Waldeck-Rousseau quotes the opinion of Paul Bert and describes the régime of a free church in a free state as "a Catholic anarchy in a powerless state." Further on he states: "If there are questions of which one can say that they are not yet mature, this is one of them." "Notes de Waldeck-Rousseau," *Revue Politique et Parlementaire*, October, 1906.

of the Third Republic, was at the election of 1900 inscribed on the platforms of only 180 deputies. Between 1887 and 1902 eight votes were taken in the Chamber of Deputies on the principle of separation. The highest vote in favor of separation was 191 out of nearly 600 deputies, in 1890. The lowest figure was 152, in 1896, under the ministry of M. Bourgeois.<sup>1</sup>

It was, as usual, not the general causes but secondary and seemingly trivial incidents that gave the final and decisive impulse to separation. Those incidents were the visit of President Loubet to Rome and the quarrel of the French government and the Holy See over two bishops.

In April, 1904, President Loubet went to Rome to return the visit that King Victor Emmanuel had paid him the preceding October. He did not call at the Vatican. Thereupon, on April 28, the pope sent a protest to all the Catholic powers. Pius X explained that the heads of Catholic nations owe especial deference to the supreme pastor of their church. That deference, shown until then by all monarchs, seemed to him even more binding on the first magistrate of the French republic, inasmuch as France had traditional relations with the Holy See and enjoyed special privileges, such as a large representation in the sacred college of cardinals and the protectorate of Catholic interests in the Orient. In view of these facts, recited at length, the pope deemed it "a grave offence to the sovereign pontiff" that the French President should have come to Rome to render homage to him (*i. e.* the king of Italy) who holds unrightfully the pope's civil sovereignty and interferes with his freedom and independence. And he went on to say, in a sentence that was omitted from the document sent to France, that "if, in spite of that, the papal nuncio had remained in Paris, it was due to to very serious reasons of an altogether special order and nature."

This whole protest was considered by all parties, except the ultramontane, as an unwarranted interference in the foreign relations of the republic. On May 6 the minister of foreign affairs instructed the ambassador to the Vatican to state to the

<sup>1</sup> *Revue Politique et Parlementaire*, October, 1906.

Holy See that he could not accept the note of April 28. And when, on May 17, thanks to a communication made to *L'Humanité*, M. Jaurès' newspaper, the omitted sentence with its implied threat became known, the indignation of the official world knew no bounds. Receiving no satisfactory answer from the cardinal secretary of state as to the authenticity of the text, the government recalled its ambassador on May 21. In the Chamber the attitude of the government was approved by an overwhelming majority, including M. Ribot with the moderate party, and on May 27, 1906, a motion of confidence was carried by 427 votes against 95.

The second incident arose out of the attitude of the Holy See towards two French bishops—the bishop of Dijon, M. Le Nordez, and the bishop of Laval, M. Geay—who had incurred the animosity of a certain number of people of their dioceses. Complaints against both had been made at Rome; mainly, it appears,<sup>1</sup> because they were friendly to the republican government. The bishop of Laval was requested by Cardinal Vannuttelli of the Holy Office to resign within a month, and the bishop of Dijon was directed to cease all ordinations in his diocese. M. Combes and M. Delcassé protested against what they considered a violation of the Concordat. Bishops could be appointed only by the state, and the Holy See had no right to demand from them a resignation, total or partial, in which the state had no voice; nor had the Holy See the right to summon bishops to Rome under threat of penalty. Correspondence between Foreign Minister Delcassé and Cardinal Merry del Val, energetic on the part of the former, conciliatory on the part of the latter, began in May, 1904, and ended in July, 1904, with a telegram from Paris which stated that, in view of the fact “that the Holy See maintained the acts accomplished without the knowledge of the power with which it signed the Concordat, the government of the republic decided to put an end to official relations which, through the Holy See's fault, were without utility.” On the 30th of July the diplomatic representatives

<sup>1</sup> It is known, however, that other charges were made touching the personal character of these bishops. See W. F. Lonergan, *Forty Years of Paris*, p. 305, and E. Combes, *Une deuxième campagne laïque*, p. 29.



of France to the Vatican were definitively recalled, and the papal nuncio, Mgr. Lorenzelli, was informed that his mission to France was henceforth without object.

These two incidents, especially the latter, which through the vacillating attitude of the two bishops resulted in absurd complications, satisfied the government and the Chamber that the time had come to consummate the rupture that had so long been threatening. M. Combes, who had found it difficult after the quarrel with the Vatican over the visit to Rome to restrain the Chamber from voting on May 27 a motion favorable to separation, now took the initiative. On September 5 he delivered at Auxerre an address in which he committed the government for the first time to the new policy.<sup>1</sup> This policy he reaffirmed before the Chamber October 22; and the attitude<sup>2</sup> of the government was approved by a vote of 318 against 230. On November 10 M. Combes presented a bill which was thought by many to be rather drastic.

But it was not given to the fiery old anti-clerical statesman to embody in legislation his conception of the new relations that were to exist between church and state. In the first weeks of 1905 the Combes ministry fell and was replaced, January 24, by that of M. Rouvier. One of the first acts of the Chamber was to vote a new motion, in which the cabinet was urged to push the separation to a satisfactory conclusion. This motion, with a preamble reading: "Whereas the attitude of the Vatican has rendered necessary the separation of church and state, and whereas the government has the confidence of the house to carry it through . . ." was adopted on February 10, 1905, by 386 votes against 111.

<sup>1</sup> "The successive violations by the Papacy and the bishops of the stipulations of the Concordat, which, however, are as binding on them as on the French government—direct correspondence between the nuncio and the bishops, canonical investiture systematically refused to the candidates of the government, constant meddling in our internal affairs—have led me to believe that time has come to have recourse to divorce." Address at Auxerre, September 5, 1904.

<sup>2</sup> Cf. *Une deuxième campagne laïque*, p. 319.

### III. *The preparation of the law and its discussion in Parliament*

This vote of the Chamber was not a sudden and unexpected move of the majority, nor was it to remain, like so many other votes, an empty demonstration. There existed at that moment in the Chamber a committee which had been engaged for nearly two years in preparing a bill for the separation of church and state. This committee, elected on June 11, 1903, before the conflict with the Vatican had assumed an acute character, had worked faithfully to elaborate a comprehensive measure, dealing with every phase of the problem. It had examined various other bills, eight in number, drafted by individual members of the Chamber, as well as the bill presented on November 10, 1904, by M. Combes. To these was added, on February 9, a bill presented by the incoming Rouvier cabinet. The new minister of worship, M. Bienvenu Martin, thought it advisable not to insist upon the terms of this latest government bill, but to collaborate with the committee and to present and defend before the Chamber the text which should result from their common deliberations.

The committee on separation of church and state finished its labors on March 4, 1905. It had worked under great difficulties and against odds that seemed, at first, well nigh too heavy. It was composed of 33 members, representing with approximate equality widely divergent tendencies. The first vote stood only 17 to 16 in favor of the principle of separation.

Two men in this committee played a prominent part throughout the whole debate. The first was the chairman, M. Ferdinand Buisson, a well-known professor of philosophy at the University of Paris. Born in 1841, M. Buisson entered the political career late in life, in 1902. From 1879 to 1896 he had been the superintendent of the whole primary educational system of France (*directeur de l'enseignement primaire*), and as such he was the right hand of Jules Ferry and Goblet in the great reform which, between 1881 and 1886, established in France universal, compulsory and undenominational education. As an author his main work is a doctor's dissertation of voluminous proportions on Sebastien Castellion, who was one of the first free-thinkers and apostles of toleration in the per-

iod of the Reformation. M. Buisson is by birth a Protestant ; in his religious opinions, an agnostic ; in politics, a radical. At the Sorbonne his subject was the science of education. In the Chamber of Deputies, thanks to his long services to the cause of democracy, to his earnestness, scholarship and experience in all educational matters, he soon acquired great authority.

At M. Buisson's side appeared, as provisional and later as permanent *rapporteur* or spokesman of the committee, a man who, although well known in political circles, was to win his spurs in this long fight as one of the most gifted speakers and most skilful statesmen in Parliament—M. Aristide Briand. Like M. Buisson, M. Briand entered Parliament only in 1902. Born in 1862, a lawyer and a journalist, he was generally recognized as one of the most brilliant propagandists of the socialist party. The general public however knew little about him. In Parliament his extreme opinions were gradually tempered, or at least their expression was moderated, a change which showed once more that a socialist who has the ambition of becoming a statesman will learn the indispensable art of compromise. In the sittings of the committee on separation as well as during the debates before the Chamber, M. Briand astonished everybody by his spirit of conciliation, the moderation of his attitude, his willingness to see both sides of every question. If his "opportunism" disappointed some of the more violent of his friends, on the other hand it came as a pleasant surprise to the less radical of his republican colleagues. In addition to his liberal and conciliatory spirit, M. Briand displayed an oratorical skill, a versatility of dialectics, a persuasive charm and, at times, a fervid eloquence that kept the house under his spell throughout the contest. By common consent there is something in his voice and in his manner that captures his audience, winning their confidence as well as their admiration. M. Clemenceau, before he had become a minister, wrote in his newspaper, apropos of a discussion in which he and M. Briand had taken opposite sides, a short sketch of his future colleague that is not without interest at the present time. "Never did any lawyer do better with a bad case. Every weakness . . . became an element of strength, thanks to his illusive art, his oratory, his gestures . . . If I am

ever to come before the courts I want M. Briand to defend me."<sup>1</sup> It required, indeed, not merely a clever debater and a powerful orator, but also a clear legal mind, trained to all the technicalities of law and of its interpretation, to guide the house through the maze of so complicated a text.

In the Chamber of Deputies the discussion of the measure began March 21 and ended July 3, 1905. In the Senate the discussion occupied the first weeks of the winter session, November 9 to December 6. The bill was carried in that house on December 6, and promulgated on December 9. The debates in both houses were thorough, exhaustive and, in many respects, fertile of good results. Regarded merely as a display of oratory, no debate, for many years, has been so brilliant. Besides M. Briand, some of the best speakers of the Parliament—MM. Barthou, Paul Deschanel and Ribot for the republicans, M. Piou for the Catholics, Deville and Jaurès for the socialists, and, in the Senate, Clémenceau and de Lamarzelle—delivered addresses that redound to the credit of French eloquence. Every aspect of the problem was carefully considered. Theological and canonical questions were argued as in a church council; at times the hearers might have imagined that they were attending a university lecture on law or on history.<sup>2</sup>

While the opposition of the members of the Catholic party to the new bill was uncompromising and for that very reason ineffective, the objections of the moderate republicans to some of its more stringent provisions carried weight with the Chamber, and their suggestions, accepted by a *rapporteur* of free and hospitable mind, were embodied in the bill as definitively voted. The result was a law that hostile partisans assailed with vehemence; but M. Deschanel, speaking at the end of the

<sup>1</sup> *L'Aurore*, April 29, 1905.

<sup>2</sup> For instance, the historical problem of the relation between the confiscation of church property and the appropriations voted by the Constituent Assembly for the maintenance of the clergy, and the question whether these appropriations are to be regarded as a salary or as an indemnity, were thoroughly and brilliantly discussed by the socialist Gabriel Deville. The Chamber favored the theory that the "budget of the Roman Catholic worship never had the character of a debt." Session of March 23, 1905: *Journal Officiel*, March 24, 1905.

discussion, described it as a moderate law, and one that could not be denounced as "a law of persecution and hatred."<sup>1</sup>

If a certain class of radical politicians, of whom Deputy Allard, of Toulon, was the most consistent representative, had had their way, the church would have been treated much more harshly. It would have been deprived of all the buildings devoted to worship, and it would have been left without indemnity or pensions of any sort. In fact the law, although voted by a political party that has for the church nothing but distrust and in some cases hostility, exhibits a liberality of spirit which the radicals had not previously displayed. This liberalism, besides being in accordance with the principles of the republic, was prompted by the political necessities of the hour. Neither M. Clemenceau, on whom was to fall the responsibility of applying the laws, nor M. Combes, who originated the first bill, nor M. Briand, on whom fell the brunt of the parliamentary battle, were in sympathy with the policy of those radicals who expected to use the new law as a weapon to strike at religion. Speaking in the Senate, as early as October, 1902, M. Clemenceau had expressed his opinion on the subject in unmistakable terms: "Governments can do nothing against beliefs. Religions have been seen to rise: religions have died out. Never has a religion been seen to die under the action of governments." And later he explained what the republican party was aiming at: "We do not wish to destroy a single belief in a single conscience; but we wish and we are able to destroy everything that pertains to the Roman government." In his Auxerre speech, already referred to, M. Combes, announcing his intention to propose a bill of separation, stated that, while he believed that the republican party would accept without reluctance the thought of the divorce, he felt likewise assured that they would accept it "not in spirit of hostility towards Christian consciences but in a spirit of social peace and religious liberty." The principles that guided M. Briand are most emphatically expressed in the speech that he delivered on November 9, 1906, before the Chamber, after the pope had

<sup>1</sup> Session of July 2, 1905.

condemned the law. Addressing the members of the Catholic party he said:

What does the state, the lay state, owe you, gentlemen? What it owes you, Catholics, is liberty of conscience. It owes you more: it owes you the faculty of expressing in all independence your religious beliefs through those exterior manifestations which constitute worship. [Hear! Hear! on the right and in the center.] That right the law must confer upon you, the state must guarantee it to you. When you say that we declare war on the church, on religion, gentlemen, you are mistaken. The undenominational state must remain neutral in respect to all religious confessions. It is not anti-religious, it has not the right to be anti-religious. [Applause on the right and in the center.] It is unreligious. [Applause on the left and extreme left.]

This liberalism, which had been called into question, was asserted at the very outset, in the first article of the law, in which, contrary to present practice, a statement of principles was inserted. It reads: "The republic assures liberty of conscience. It guarantees freedom of worship subject only to the restrictions hereinafter imposed in the interests of public order."

#### IV. *The law of 1905*

This law of December 9, 1905, might, at first sight, seem of little interest, since it has been almost wholly superseded, as far as the Roman Catholic Church is concerned, by the law of 1907. It is, however, of considerable importance, and for two reasons. In the first place, it holds good for the Protestant and Jewish denominations. In the second place, it is worth while to note what there was in its provisions that was found unacceptable by the papacy, and it is useful to inquire to what extent it deserved the imprecations that were heaped upon it.

The law is long and in appearance complicated. It is divided into six chapters and forty-four articles. The first chapter is entitled "Principles"; the second deals with the assignment of property and pensions; the third, with the edifices for public worship; the fourth, with the associations for religious worship; the fifth, with public-worship regulations; and the sixth, with general regulations. From this maze of 44 articles let us dis-

entangle the main lines of the new régime and go straight to the heart of the law.

Since, under the Concordat, worship was organized by the hierarchy under the control of the state, and the material interests of the church were entrusted to the care of a body known as the vestry or *conseil de fabrique*, it was essential that some organ should be established to take over some of the duties of this latter body. The organ provided by the new law was the now famous "association of worship" or *association cultuelle*. It is first mentioned in chapter iv, article 18. Its sole object, as article 19 provided, must be "religious worship." The association must be composed of at least seven members in communes of not more than 1000 inhabitants. The number of members increases, in proportion to the size of the commune, to a maximum of twenty-five.

Where do these associations get the funds to carry on religious worship? First, they succeed the former vestries in all their property rights, real or personal. The transfer was to be made by the legal representatives of the old establishment. The vestries could thus choose their own successors. The state interferes in no way in the transfer except to protect all interests concerned. In the second place, the associations of worship may receive, in addition to the assessments provided by the general law of associations, the proceeds of collections, offerings and payments for religious ceremonies, rental of pews, *etc.*

How about edifices of worship, the seminaries, parsonages, houses of bishops and archbishops? It has seemed strange to many that the state should have control of buildings that are essentially a part of the accessories of worship and seem to belong to the various congregations as much as the crucifixes on the altars or the garments of the priests. Unfortunately all edifices of worship—which, it is important to note, were never the property of the clergy but of the parish or commune—became property of the nation by the law of 1789; and this decree has never been repealed. The decisions of the Court of Cassation and of the Council of State, the policy of all governments, including the monarchy, have been unanimous in regard-

ing this property as state property.<sup>1</sup> It might have been generous to hand it over to the clergy. But the state as such is not given to displaying generosity.

Some of the more uncompromising enemies of the church were willing to debate but one question, namely: What shall be done with the churches? M. Allard was not averse to selling the parsonages outright to the highest bidders and to transforming the churches into music halls. But the majority of the Chamber refused to go to the limit of its legal rights and, under the pressure of the more conciliatory deputies, adopted a wiser policy. According to article 13, "buildings used for purposes of public worship with their furniture and equipment will be put free of charge at the disposal of public religious establishments," *i. e.* associations of worship. Moreover these buildings are exempt from the realty tax as well as from the tax on doors and windows. Of course this right of gratuitous occupancy is conditioned on the fulfilling of special requirements such as the maintenance and care of the buildings, the continuance of worship, *etc.* The houses of archbishops and bishops, parsonages and seminaries, were left gratuitously at the disposal of their previous occupants, the former for two years, the latter for five years. After the expiration of these periods they were to revert to their rightful owners, state, department or commune, to be disposed of as these owners might see fit, which meant, in most cases, that these buildings were to be rented to the very persons who were then using them.

The treatment accorded to the ministers of the various denominations was likewise considerate. They were not thrown on the tender mercies of flocks unaccustomed to loosen their purse strings for commodities which, up to then, cost them nothing. A system of pensions and allowances was devised, meeting the demands of the occasion and making the transition less painful for all concerned. Ministers over sixty years of age and having served thirty years received for life three-fourths of their salary. Ministers over forty-five, having twenty years

<sup>1</sup> This referred only to edifices built before the Concordat. Readers who have traveled in France have doubtless noticed on the churches the inscription "Liberté, Égalité, Fraternité," which is the stamp of the state on all its property.



of service, were given half their former salary. These pensions, in case of denominations having married ministers, were to accrue after death of the holders to the profit of their widows and children. Those who were not entitled to pensions received during four years allowances gradually decreasing from the entire salary to one-third. The duration of this period was increased for localities having less than one thousand inhabitants—villages where the adjustment was likely to be more slow and difficult—so that for the ministers of country parishes the period became eight years.

Of course it is only fair to set over against this list of liberal provisions the principal restrictions that accompany them. Some of these restrictions are financial. They are precautions that every institution which wishes to be on a solid financial basis should welcome. Thus, in accordance with article 21, the associations of worship are to keep an account of their receipts and expenditures and are to submit it every year to the inspection and auditing of the department of internal revenue. Other restrictions are intended to check the menace of exaggerated development of wealth—a constant object of concern in a land where the church once owned one-third of the territory, where mortmain has always been a national bugbear, and where an ordinance of 1749 passed by “the most catholic king” forbade the growth of inalienable property by legacies. Inasmuch as the law of 1905 does not authorize the religious associations to receive legacies, legacies to these associations are invalid. The right to enrich oneself by legacy is a privilege that the state gives or refuses as it sees fit. Under the association law of 1901 lay associations have not that privilege. M. Briand, in his report, stated his position in the following words: “Religion must not maintain itself by the inheritance of the dead but by the voluntary liberality of the living. It is the zeal of the faithful that will make the church live and that should regulate its fortune.”

To the property of these associations was added a reserve fund, of which the amount is limited. In the case of associations having a yearly income of at least \$1000 the reserve fund is not to exceed three times, and in the case of

associations with a smaller income it is not to exceed six times the average amount spent yearly for public worship during the preceding five years. If, for example, a church receives \$2000 a year and spends \$1500, it may have a reserve fund of \$4500. Besides this general reserve fund a religious association may have a special reserve fund for the construction, repairing and decoration of buildings. This fund is not limited.

The political restrictions inscribed in the law are inspired by the same fear that the church may become too powerful. These restrictions, which are to be found in all the preceding drafts of a separation law, indicate the suspicion with which the republic, or rather the state, whether republic or monarchy, has always looked upon the church. And there is some ground for such suspicion. If when the priests were under the direct control of the state they rebelled against the laws, interfered in politics and threw their influence on the side of the opposition, what would they not do in a régime of unlimited freedom? To say that the ministers of worship are ordinary citizens is to beg the question. In a Roman Catholic country, where they have participated for centuries in the power and prestige of the government, they have, through the confessional and the special education given to their flock, an influence against which the state may well wish to guard itself.<sup>1</sup>

Therefore articles 31, 34 and 35 of the law provide appropriate punishments for attempts to interfere with private liberty, for insults addressed to public officials, for provocations to violation of the laws of the land, on the part of the ministers of worship. These penalties vary from a fine of three dollars, in case of threats determining people to exercise or abstain from exercising their rights of religious worship, to two years in jail, in case of provocation to resist laws and attempts to raise one section of the people against the other.

In a French comedy, *Les Faux Bonshommes*, a man whose will has just been read exclaims: "Why, they speak only of

<sup>1</sup> For the last thirty years there has hardly been an election of a Catholic member to Parliament in which the defeated candidate has not complained of undue pressure exercised by the clergy on the country voters. Most annulments of elections have been based on "interference of the clergy."

my death in there." Likewise the Catholics claim that in this law disfranchising the church there is a disquieting amount of talk about prison and fines. A French court has even gone out of its way to qualify these articles as *exorbitant, du droit commun, i. e.* discriminating against one category of citizens. So long, however, as the ministers of worship confine themselves to their religious duties, there is no reason why these threatened punishments should alarm them.

Such, in its main provisions, is this law of 1905. At first sight, and from an outsider's point of view, it seemingly presented all the guaranties required for the free exercise of worship by all concerned. It gave to the churches an official organ, which was to take in hand the administration of their property and the temporal government of the parishes. It assured to the "associations of worship" all the money needed for their current expenses, and for the construction as well as for the maintenance of buildings. They were to keep all the property then in the hands of the vestries (*conseils de fabrique*). This property amounts, according to M. Briand, to one hundred million dollars; to this must be added 2000 churches,<sup>1</sup> 2500 parsonages and a large number of seminaries. That was all theirs.\* They were to keep likewise gratuitously for five years buildings belonging to the state, the departments and the communes—palaces of bishops or simple parsonages. 20,000 priests were to receive the benefits of the allowances provided for those who were not entitled to a pension; and all the theological students subject to the old military law were to continue to enjoy the usual exemption.

To these were added other advantages of a moral character. The régime of subjection to the state had come to an end. No more compulsory liturgy; no more disciplinary measures against the members of the clergy; no more participation of the government in the choice of bishops and priests. The state had

<sup>1</sup> Chamber of Deputies, Session of February 19, 1907. The 2000 churches were built since 1801.

\* A whole year was given to the churches to adjust themselves to the law. This period was extended to two years for the transfer of property. So the law voted on December 9, 1905, was to have its full effect only in 1907.

no longer the right to interfere between the Holy See and the clergy; and henceforth bishops were free to assemble as they saw fit and communicate with the pope without the consent of the government. And of some of these rights they have already availed themselves.

Finally there was a clause which excited more controversy than any other—a clause inserted to insure the church against the danger of having its property pass into the hands of unorthodox or schismatic bodies, organized as associations of worship according to the law and nevertheless out of sympathy with the tenets of the Roman Catholic doctrine. In article 4, regulating the transfer of property, M. Briand, supported by M. Jaurès, obtained in the teeth of the opposing radicals, of whom M. Clemenceau was not the least vigorous, the restriction that the property of the vestries should be transferred to those associations only which conform “to the regulations of the general organization of the religious worship of which they propose to assume the exercise.” Thus were frustrated the hopes of the men who expected that the law might prove a useful weapon to promote schism within the church, and who claimed that it was not the state’s business to perpetuate Catholic orthodoxy. It is true that this concession to orthodoxy was thought to be cancelled in part by the provision of article 8, referring all contests to the Council of State and empowering this body to decide whether one association rather than another conforms “to the regulations of the general organization of the religious worship.”<sup>1</sup>

A group of Catholics, writing a letter to the pope in September, 1906, after reciting the various advantages offered by the law ended by saying: “You will never succeed in making the people believe that a law that provides such advantages for the church is a law hostile to religion.”<sup>2</sup>

<sup>1</sup> The Archbishop of Besançon, in a pastoral letter of January 29, 1907, summed up the objections against the powers given to the Council of State: “A tribunal composed exclusively of laymen, Christians, freethinkers and Jews, empowered to pronounce as final court of appeal on a question which only the ecclesiastical authority has the mission to decide! It is an intolerable incursion of the civil power . . .” See *The Nineteenth Century and After*, June, 1907.

<sup>2</sup> Petition printed in *Le Temps*, September 2, 1906.

Whether the people believed the law to be hostile to religion or not, they obviously approved of it; for at the first opportunity given them to express an opinion, they sanctioned the work of the parliament. From the general elections of May, 1906, the party that had voted the law came back stronger than ever. This result disposes of the argument that the separation law was forced upon an unwilling country.

Nevertheless the Holy See vetoed the law. Why?

#### *V. Reasons of the church for opposing the law*

Although the church of Rome finally refused to accept the law, the Catholics of France were far from unanimous in their hostility. It is true that the militant clericals, like M. de Mun, the orator whose florid eloquence had always defended the traditional privileges and reactionary claims of the church, preached resistance to the law. In a speech delivered in December, 1905, after the vote, he said:

This law, which assumes the lying name of a separation law, is more odious than the civil constitution of 1791, which, however, left in history a trail of blood. That was a schism; this spells apostasy . . . I hear people say that we must advise Catholics to make a loyal trial of this mortal experiment. As for myself, I shall not consent to it.

But, on the other hand, a large number of prominent Catholics showed themselves willing to accept the law in spite of its defects. In May, 1906, before the first assembly of bishops met to discuss the situation, twenty-three laymen, among whom were the late M. Brunetière, M. Thureau-Dangin, M. d'Haussonville and the Marquis de Vogüé (all four of the French Academy), MM. Anatole Leroy-Beaulieu, Cochin and others urged the bishops, in a public letter, to try to make use of the new legislation.

At the end of May, 1906, seventy-four bishops, assembled to prepare a compromise, decided after two days' deliberation to give the law a trial. While rejecting almost unanimously<sup>1</sup> the form of association provided in chapter iv, they accepted a pro-

<sup>1</sup>Two bishops only, if we are to believe the statement of the Comtesse de Franqueville, voted for it. *The Nineteenth Century and After*, June, 1907.

ject of association of worship which had been drafted by the bishop of Besançon and which appeared to be both legal and canonical. In a letter to the Comtesse de Franqueville, this very bishop, M. Fulbert-Petit, gives the text of the question upon which the decisive vote was taken. It reads: "Do the bishops believe that it would be possible to constitute associations which, without violating the law of separation, would maintain intact the essential rights of the church . . . its divine constitution and its hierarchy?"<sup>1</sup> The answer was yes, by a large majority. It is true that the same bishop adds that, while the majority thought it possible to find a ground of conciliation and said so freely, at the same time they respectfully submitted their opinion to the judgment of the pope, promising to abide by his decision.

The pope, whether acting under the influence of his advisers, as has been supposed, or himself unable to see his way to accept the law in any form, did not follow the suggestion of his bishops. He was somewhat slow in making public—perhaps also in forming—his opinion, and the decision that the French Catholics were awaiting came, so to speak, in two instalments. The first of his encyclicals following the promulgation of the law appeared on February 11, 1906. From its opening words, which give the keynote of the whole document, this encyclical is known as *Vehementer Nos*. It is indeed a vehement attack, not only upon the religious policy of the republic, but also upon the conditions under which the rupture with the Holy See was brought about. The very principle of separation of church and state is declared to be "an absolutely false thesis, a very pernicious error." As to the law of 1905, Pius X complains that, by giving the administration of worship not "to the divinely instituted hierarchy but to an association of laymen," it violates the principle according to which the church "was founded by Jesus Christ." These "errors" and the measures taken for the police of the churches, the exceptional penalties provided against rebellious priests and the claims of the state on all the places of worship built prior to the Concordat, war-

<sup>1</sup> Letter of April 11, 1907; *The Nineteenth Century and After*, June, 1907.

rant in his eyes the anathema that he finally pronounces against this law, which he considers an offence against God, himself, the bishops, the clergy and the Catholics of France.

The practical question, what course the French Catholics were to adopt when the law should go into effect, was first answered by the pope in his encyclical *Gravissimo*, published August 10, 1906, eight months after the promulgation of the law. The gist of the document is in two sentences: "After having condemned as was our duty this iniquitous law, we examined with the greatest care whether the articles of the aforesaid law would leave at least some means of organizing religious life in France so as to rescue the sacred principles upon which rests the Holy Church." Having consulted the bishops, and addressed "fervent prayers to the Father of Light," the pope came to the following conclusion: "As for the associations of worship, as the law organizes them, we decree that they can absolutely not be formed without violating the sacred rights which are the very life of the church."

Is there any other form of association which might be both legal and canonical? Pius X did not see any. Therefore, as long as the law remained as it was, the Holy Father forbade the French Catholics to try any form of association which did not promise, in an "unmistakable and legal manner, that the divine constitution of the church, the immutable rights of the Roman pontiff and the bishops, as well as their authority over the property necessary to the church, especially over the sacred edifices, will be forever insured in those associations."

This condemnation by the pope, occurring two months before the law was to take effect, created a great sensation. The supporters of the law were astonished. M. Briand confessed later that he had not thought such a decision possible. The adversaries of the law were scarcely less surprised. However, most of the faithful members of the church, priests and laymen, declared their willingness to submit to the pope's instructions. That they were all, in their conscience, convinced of the soundness of the Holy See's position no one would claim. As stated above, the assembly of bishops as well as twenty-three distinguished laymen had already expressed their desire to

adapt themselves to the law, however much they disapproved of its principles. On September 2, *Le Temps* published a petition of a group of French Catholics to the pope complaining bitterly of his "unexpected *non possumus*" and deprecating this decision, in which they claimed to see the influence of a committee of "German, Italian and Spanish prelates." And the same letter recited at length the undisputed advantages that the church could find even in this law, in some respects unsatisfactory to her. They considered that the main objection of the Holy See against the law, namely the unorthodox character of the associations of worship, could not hold after the seventy-four bishops had solved the problem of conciliating the rights of the law and of the Catholic hierarchy by accepting a project of associations that were both "legal and canonical." Other authorities no less worthy of credit refused to admit that the associations of worship could not be fitted into the Catholic hierarchy. Thus Professor Esmein, of the faculty of law in the University of Paris, wrote, in October, 1906, in the *Revue Politique et Parlementaire*: "These associations, to be sure, are not in the hierarchy of the church; they are outside of it . . . . But the church may regulate their relations with herself as she pleases. She may introduce into them members of the clergy or to only laymen." Such is the case in America, where, according to the council of Baltimore of 1884, quoted by M. Brunetière,<sup>1</sup> "those who administer the property of the church, in whatever capacity, can do it legitimately only with the consent of the Holy See or of the bishops." In order to enforce this rule the bishops of the United States drafted a certain number of conditions relative to the constitution, composition and competence of these councils and boards of trustees."

<sup>1</sup> *Revue des Deux Mondes*, December 1, 1905.

<sup>2</sup> It is fair to oppose to these statements of French Catholics the opinions of a French Lutheran juriconsult, M. Armand Lods, who wrote in a Protestant review: "The more closely I study them, the more convinced I am that it was impossible for the pope to accept the *associations cultuelles*. In accepting them he would have allowed the government to impose a Protestant organization on the Catholic Church." *Foi et Vie*, August, 1905. M. Combes likewise stated, in a sensational article published by the *Neue Freie Presse* of Vienna, in January, 1907, that "the famous theory of associations of worship fits very badly with the essential principle of Catholic belief."



But the arguments and reasons of the professors of law, the Catholic laymen or M. Brunetière were of no avail after the Vatican had announced its decision. And for this decision there were, from the ecclesiastical point of view, three grounds. One was the failure of the law of 1905 to recognize, in so many words, the authority of the ecclesiastical hierarchy.<sup>1</sup> Another was the abrupt fashion in which the French government broke off its diplomatic relations with the Vatican. The fact that the government consistently ignored the pope during the drafting of the bill was a third.

It is obvious also that the financial grievances of the clergy were very serious. Endless arguments were exchanged between the opposing historians and jurists as to whether the appropriation given by the revolutionist assembly to the clergy was merely the salary of a public service, as the republicans claim, or, as the Catholics assert, a compensation for the confiscation of religious property in 1789. It appeared in the parliamentary debates that each side was able to make a pretty strong case and to array a formidable line of dates and texts. The discussion brought out sharply the fundamental points of difference. The Catholic party has always felt that the church suffered a financial loss and a moral injustice, for which it was entitled to a pecuniary compensation. The republican party has never dreamed of giving the slightest satisfaction to these claims, and it has always regarded the law of November 2, 1789, as conclusive on the merits of the question. To this party the matter is *res adiudicata*.

There was, however, an objection stronger than any thus far noted, stronger even than the repugnance at seeing the eldest daughter of the church cut loose her last ties with Rome. It was the hostility of the pope and of the church as a whole to the régime of separation in itself, considered as a theory of ecclesiastical or of secular government. In the Syllabus issued by Pius IX in 1864, exposing "the principal errors of our time,"

<sup>1</sup> "What does the pope want? Simply that a legal text should recognize, not as a divine right but as a historical fact, the necessary authority of the church hierarchy over the association of Catholics established by the law." Abbé Gayraud, deputy of Morbihan, quoted in Professor Esmein's article, *loc. cit.*

chapter vi mentions, among the errors relative to "civil society," the assertion that "the church must be separated from the state and the state from the church." Likewise in the encyclical *Quanta Cura* of December, 1864, the same pope proclaims, in accord with his predecessor Gregory X, that it is a mistake or, in Gregory words, a *delirium*, to assert that "freedom of conscience and of worship is the right of every man." In the light of these and other similar papal utterances<sup>1</sup> it seems scarcely strange that Pius X should have refused to give his approval to a régime which goes against all the ideas, traditions and doctrines accepted by the church.

#### VI. *Situation created by the opposition of the church*

Meanwhile what was the government to do? Its position was embarrassing, and its policy, for a time, was vacillating. Circulars and speeches followed each other in quick succession. In the first place the government took no official notice of the pope's instructions. In the second place, the president of the council and the minister of worship stated emphatically their determination that the churches should not be closed and that worship should go on. Under what régime the churches were to live was at first somewhat uncertain; but M. Briand speedily discovered in existing legislation all that was needed to insure the continuance of religious worship. He was willing to admit that the church was not obliged to avail herself of the privileges that the new law provided for her. Law imposes duties on citizens, but it does not force them to make use of rights or privileges. Everything that is not forbidden is lawful. Hence, citizens who should meet to practise their worship would do so in accordance with the law of 1881 regulating public meetings.

This solution was first made public on November 9, in a masterly speech delivered by M. Briand before the Chamber in answer to an interpellation. M. Briand showed, once more, his spirit of conciliation and his breadth of mind. His address, which was received with acclamations and was posted all over

<sup>1</sup> Cf. also the document *De Ecclesia*, anathematizing the doctrines of freedom of conscience and toleration of all religious sects.

the country, recited with earnestness and fervor the efforts that had been made to draft a bill satisfactory to all concerned and the desire that he still felt to establish a régime in which worship might be possible and easy for all sincere worshipers. This régime he afterwards described at length in a circular published December 2. The minister stated that the priests could make use of the churches after having filed such an application or declaration as is required for ordinary meetings by the law of 1881. These declarations would be valid for a whole year instead of for one meeting. But under this régime the priests would be simply temporary occupants of the buildings of worship without any legal title.

This compromise proved no more satisfactory to the Vatican than the law of 1905. Besides, the circular of Minister Briand sounded less conciliatory than his previous utterances, inasmuch as he warned the church that it would lose, for lack of compliance with the law of 1905, all the property of the vestries, which would go to institutions of charity, and that it would forego the various privileges which the law of 1905 offered to her ministers. So the pope refused to sanction this arrangement. He objected to the scheme of yearly declaration. In the first place he complained that this broad interpretation of the law on public meetings was merely a personal fancy of M. Briand which might not bind his successors. In the second place, the dignity of the priests did not allow them to accept the humiliating position of simple occupants of the churches.

Meanwhile the time was fast approaching when some solution must be found. The period given to the churches to comply with the law ended December 11, 1906. The day came. Nothing happened. Services were held as usual in all the churches. In some instances the required declaration was made by faithful laymen, who wished to avoid useless disorders. On the other hand, many ministers took advantage of this opportunity to violate the law and to annoy the government. These delinquents were prosecuted and fined. At St. Étienne, for instance, twenty-one priests were fined, each to the amount of one dollar and twenty-five cents. In the provinces, here and there, the

mob hissed and threatened the officers who came to attest the violation of the law. In the little town of Lesneven, in Brittany, the policeman was met by an infuriated mob, and a woman with knife in hand showed her disapproval of the law of 1905 in a way that the official could not well countenance.

Other provisions of the law, viz., those requiring the return of property to the state or to the commune, were immediately enforced, and their enforcement was accompanied by popular manifestations. Bishoprics, parsonages and seminaries were vacated. The archbishop of Paris left his palace in a spectacular manner, surrounded by a crowd of young aristocrats and other faithful Catholics who sang hymns and hitched themselves to his carriage. Similar demonstrations occurred at Tours, Annecy, Bourges, Nancy and other cities. In some places the evacuation of seminaries and parsonages was likewise marked by incidents. At Cambrai, during the expulsion of students who had barricaded themselves in the theological seminary, the coadjutor of the archbishop touched in an oratorical gesture the shoulder of the sous-préfet; he was at once arrested and was fined five dollars by the court. Everywhere the officials of the department of internal revenue had to take over the property of the vestries, and here and there this operation was attended by friction. Protests, more or less indignant, were made from the pulpits. And to manifest their grief, many churches suppressed the Christmas midnight mass, which has always been a popular fête and an occasion for revelleries in high-price restaurants. But on the whole, the manifestations against the law, however sincere, were not pushed to the point of serious disturbance of the peace.

The attitude of resistance, however, was sufficiently marked to lead the government to resort to some vigorous measures. Hostilities were opened by the expulsion, on December 11, of Mgr. Montagnini, secretary of the ex-nuncio, who had remained in Paris and was giving instructions to the clergy. His papers were seized and published; and whatever may be thought of the propriety of the seizure, the papers showed on the part of the Roman prelate more than a passive interest in French affairs.

The government, however, could not leave several million

Catholics in a position in which opportunity to perform their religious duties depended upon uncertain texts and the circulars of a temporary minister of worship. It therefore set out to draft a bill that would be acceptable to the church without any recourse to the discarded associations of worship. The new bill was submitted to Parliament December 15, 1906; was accepted by the Chamber December 21 and by the Senate December 29, and was promulgated January 2, 1907.

### VII. *The law of 1907*

While the law of 1905 remains valid as regards the denominations that have submitted to it, so that its advantages are enjoyed by Protestants, Jews and a few dissenting Catholics, the Roman Catholics will have to be satisfied with what is given them by the law of 1907. The spirit of this new law is expressed in the statement made by the government in introducing the bill:

Since it appears that without motives of a religious order, upon an injunction from outside, the church rebels against the law even when the law requires only so simple a formality as an annual declaration, all weakness in dealing with her would be folly. It is the government's duty to insure with calm and firmness the supremacy of the civil power and the enforcement of all legal prescriptions.

Accordingly most of the privileges granted in the law of 1905 are withdrawn; and the law of associations of 1901, combined with the law of public meetings of 1881, forms the basis of the new régime.

Article 4 provides the new substitutes for the associations of worship. It states that public worship may be carried on by meetings held at the initiative of private citizens in accordance with the law of June, 1881, and with article 25 of the law of 1905, *i. e.* without a renewed declaration for every meeting.<sup>1</sup> Worship can also be organized by means of associations formed under the law of 1901. This law provides for two kinds

<sup>1</sup> A law promulgated on March 28, 1907, has modified the law of 1881 on this point. Formal declarations are no longer required for any meetings, religious or secular.

of associations: "free" associations, which have no "civil capacity," *i. e.* no capacity to acquire property rights or to incur obligations; and "declared" associations, which enjoy a limited civil capacity. In a "free" religious association, all property, real or personal, is necessarily held by individuals, *e. g.* by the clergy. The property rights of "declared" religious associations are less extensive than those which the law of 1905 grants to the associations of worship, but on the other hand the former associations are not subjected to the strict financial supervision which is exercised over the latter. As for the buildings, they may be left gratuitously at the disposal of the associations or of the ministers who make a declaration. The right to use these buildings is to be regulated in a contract between the priests on the one hand and the prefects or mayors on the other, according as the buildings belong to the state or to a commune.

Question arose immediately as to the form of the contracts to be signed. The bishops, assembled in Paris at the end of January, 1907, published a sensational statement setting forth their attitude in the matter. Their proposal, of which the form was somewhat haughty and uncompromising,<sup>1</sup> required the signing in all the parishes of eighteen-year leases, which were to be uniform everywhere. These leases were to be valid for the successor of the signer, provided he was appointed by the bishop.

The claim of the bishops to dictate to all the prefects and mayors of France the conditions under which they should lease state and communal edifices, permitting no reservations as to the personality of the lessee, who therefore might be a foreigner or a monk, seemed unacceptable to the government. M. Clemenceau was incensed at the "audacity" of the bishops, called their statement an "insolent ultimatum" and contemptuously refused to consider their demands. M. Briand, on the contrary, was open to conviction. Noting that the church, through

<sup>1</sup> The first paragraph reads as follows: "We remain faithful to our preceding statements . . . and maintain against the laws the protest that we have entered in common with the sovereign pontiff. With his Holiness we ask, in behalf of the church of France, respect for its hierarchy and the inviolability of its property and freedom."

its bishops, showed for the first time a desire to accommodate itself to a law founded on the new order, he thought it wise not to discourage this state of mind but to make the best of it. He sent a circular to the prefects, suggesting models of contracts which were in accordance with the law and which safeguarded the rights and interests of the communes as to the ownership and repairs of the buildings, but which, at the same time, respected the right claimed by the Catholic church not to be dispossessed of her edifices in favor of schismatic or unorthodox groups. Faithful to the spirit of the law if not to its letter, the minister declared that all contracts would become void if the priest should lose his position—in other words, should no longer be recognized by the hierarchy of the church as a regular priest in good standing. On this point M. Briand showed himself the sincere and loyal defender of the liberties and rights of the Catholics, in the face of the opposition of many republicans, who reproached him with binding forever the state and the communes to the church of Rome in its present form. Of course all those who objected to article 4 of the law of 1905 protested against the ministerial circulars. Replying, on February 19, 1907, to an interpellation of discontented anti-clericals, M. Briand stated his point of view in the following words: "They [the mayors] must not forget that the law of 1907 gives the churches gratuitously to Catholic worship, and that therefore they must not remain open to any other ceremony or manifestation that one might desire to see there, but only to the Catholic worship."<sup>1</sup>

When we come to the restrictive provisions of the law of 1907, we find that the church did not meet with the same friendly treatment as in 1905. The supplementary delay of one year, previously allowed by special decree for the transfer of property, was cancelled. From the date of promulgation of the law, namely January 2, all the property of the *menses* and vestries was definitely attributed to philanthropic and charitable institutions. Several important privileges previously accorded to the ministers of worship were likewise cancelled. Catholic theological students, who had enjoyed the benefit of the military

<sup>1</sup> *Journal Officiel*, February 20, 1907.

exemption of two years and who, at the age of twenty-six, were not in the service of an association of worship, were to go back to the barracks.<sup>1</sup> The result was depicted by M. Briand in the speech already cited. Answering his opponents, who complained that he was too lenient and too compromising and had humiliated the republic before the church, he said :

What is the fate of the church? You know it. She refused all these privileges, and now she is reduced to the point of soliciting, with Rome's consent, the lease of the churches, and not merely of the churches that belong to the state and the commune but of her own churches, of those which, two months ago, were her absolute property.<sup>2</sup>

Carried away by his emotion, M. Briand went so far as to express sympathy with the church against which he had been waging battle. Describing the sad plight to which her pride, obstinacy or faithfulness had reduced her, he said :

Indeed, if I am to speak quite frankly, the result is such that I wonder if it is not too complete. There are certain victories which ought not to be too great. There are certain victories which one may be proud of having won ; but one must not wish them so complete that they leave behind a rancor and an anger that might be transformed into hatred.

### VIII. *The present outlook*

Strangely enough, these pessimistic words of the author of the separation laws seem to-day somewhat too somber for the occasion. Of all the catastrophes prophesied or feared by foes or friends none has occurred. The new régime so violently attacked in and out of France is being gradually acclimated. The two laws which, in January, 1907, a meeting of indignant Americans, citizens of New York, branded as laws " of domination and persecution," born in " fraud and deceit," constituting " an invasion of human rights " destructive of " all liberty,"<sup>3</sup> are being

<sup>1</sup> But the Council of State saved them; *cf. infra*, pp. 293, 294.

<sup>2</sup> The leases that were being made everywhere between bishops and mayors were abruptly broken off, because the archbishop of Paris and the prefect of the Seine had not been able to come to an understanding, each making conditions that the other found unacceptable.

<sup>3</sup> See *The New York Times*, January 28, 1907.



daily carried out, and no cataclysm accompanies their enforcement.

In the first place, this much-abused legislation has not proved wholly unsatisfactory to the church. The hierarchy, which refused so sternly to accept the provisions that it considered inimical to its rights and its interests, was not slow in making use of some of the more desirable features of the law. Thus bishops and priests, for the last two years, have been appointed by the church alone, without interference by the state. No more quibbling with Rome over desirable or undesirable candidates. The Vatican has had its hands free. Again, the dignitaries of the church, who formerly had no right to assemble, have held in 1906 and 1907 two great gatherings, in which they have discussed in all independence the interests committed to their charge. Nor has the article relative to pensions been overlooked by the clergy. The very priests who, in obedience to the pope, refused to form associations of worship were prompt—and rightly so—in sending in applications for their pensions, which have been duly paid.

On the other hand, the adjustment of the personnel to the needs of the parishes, the creation of new chapels in overcrowded sections which were insufficiently equipped, the foundation of unions of priests for the defence of their material interests—movements which were impossible a year ago—are now in progress everywhere, and the church is diligently adapting herself to the new conditions. The archbishop of Paris, for instance, has created ten new parishes. The three million francs lost by his diocese in the application of the new law were easily made up by the society known as *L'Oeuvre du denier du culte*. This society receives and collects from the faithful, in addition to the usual offerings, annual subscriptions to replace the lost state revenues. Many similar societies have sprung up in the various dioceses to meet the necessity of the hour—the maintenance of the clergy and the continuance of public worship.<sup>1</sup>

<sup>1</sup> See the article by Abbé Félix Klein, a well-informed and liberal Catholic, on "The Present Difficulties of the Church in France," *The Atlantic Monthly*, April, 1908.

The period of transition is proving less stormy than might have been anticipated from the riots that accompanied the simple formality of the taking of inventories. The only fighting now going on is in the courts of justice, and the church has no reason to complain of their decisions. In dealing with priestly violations of the law, the courts have shown themselves very lenient. Some magistrates have gone to the extent of indicating their disapproval of some of the provisions of the new legislation. Thus the court of Paris, rendering judgment in the case of Abbé Jouin, who, in an ambiguous phrase, had called upon his parishioners to oppose to the law "an armed mourning" (*deuil armé*), punished this alleged "direct provocation to resist the law" (article 35) with a fine of three dollars and twenty cents. One of the extenuating circumstances discovered by the court was that the law of 1905 discriminates against the priests, as far as their political rights are concerned. The tribunal of Troyes went out of its way to remark that "inasmuch as the state had taken all the property of the Catholic clergy, the priests had no other resource than the generosity of their flocks"—a statement which was construed as an attack on the law and was resented as such by the representative of the government. On the other hand, when schismatic groups have tried to expel from the edifices of worship the regular and duly recognized priests, several courts have shown unmistakably that they would not allow the law of separation to be used as a means to disrupt Catholic unity. Decisions to this effect have been rendered by the courts of Clamecy (Nièvre), Montmédy (Meuse) and—the last and most decisive of all—by the court of Bastia (Corsica).<sup>1</sup> Even the Council of State, whose liberalism had been distrusted, has given generous decisions on

<sup>1</sup> In this case, decided in March, 1908, there was an association of worship and there was a priest who claimed the right to use the church building under article 13 of the law of December 9, 1905; neither priest nor association was recognized by the bishop. The court refused to grant the church to the unorthodox claimants, stating the ground of its decision as follows: "Whereas the parish church of P. is a municipal building which has always been devoted to Catholic worship; whereas this building loses its assigned purpose (*destination*) by being used for the celebration of a worship which is not orthodox, Father F. not holding his powers from the bishop of Ajaccio . . . " etc.

some disputed points, such as the eligibility of priests to municipal functions and the military duties of theological students.

In the various communes of France the question of disposing of the parsonages has caused some friction. In one case the mayor of a village of the department of Creuse wished to use the parsonage for a school; but the inhabitants protested with such vigor that he had to withdraw his proposal. In other instances the municipal councils asked from the priests only nominal rents; so that the prefects annulled what they considered covert efforts to defeat the law, which prohibits any subvention whatever to any denomination. Other municipalities have been still more ingenious. A village in the department of Marne appropriated a sum of money to the priest in his capacity of "public nurse." In the department of Manche money was voted to a priest for the maintenance of the cemetery. In Tarn-et-Garonne a priest was paid for protecting the parsonage against thieves. The minister of worship has been obliged to write three circulars to prevent such evasions of the law.

There have been disputes between mayors and priests about the ringing of bells. The mayors of some cities insist on using the bells for civil ceremonies, such as a civil funeral or a civil wedding. In the department of Bouches-du-Rhône the bishop, in order to punish what he considered an invasion of the rights of the church and a violation of the law, withdrew the priest and interrupted all religious services. The interruption of religious services is the weapon that the bishops have used everywhere against hostile municipalities.

Meanwhile most of the buildings, such as bishops' palaces, parsonages and seminaries, that were occupied by the church are now used by the state for its own purposes, as schools, hospitals or government buildings. Thus the archbishop's palace of Paris was vacated in time to receive the office of a new minister just created, the minister of labor; and the historic seminary of St. Sulpice is now turned over to the service of the Luxembourg Museum.

An authoritative formulation of the Catholic grievances against the laws of 1905 and 1907 is to be found in an article by the Count de Mun, in the *Dublin Review*, July, 1907. M.

de Mun's chief complaint is the uncertainty of the present situation. The legal status of the churches rests only on administrative regulations. "No guarantee protects them against arbitrary measures. Nothing is provided for their maintenance and repairs . . . The curé and his priests are only temporary occupants, without definite rights or legal authority." Moreover, after a church has been vacated for a certain time, for lack of repairs or for other reasons, it can be closed by the state and thus be lost for religious worship. Similarly, M. Félix Klein points out that the priests "cannot hold property except as individuals, and what they might receive for religious purposes cannot be handed down to their successors—it may revert only to their legal heirs. In brief, no permanent body whatever can provide for the maintenance of public worship."<sup>1</sup>

A more recent bill, which has just been voted by the Parliament (April 10), is resented by the Catholics as a new attack upon their liberties. It deals with the transfer of ecclesiastical property to charitable institutions. Under the previously existing law such transfers could be impeded by actions brought by the heirs of the original donors or testators to recover the property because of breach of the conditions on which it was given. The new law restricts the right of collateral heirs to bring such actions. If it had been adopted as voted by the Chamber, property given to the church for masses might have been transferred to a charitable institution, although this institution could not celebrate masses and did not intend to have them celebrated. It was argued that this disregard of the last wishes of the dead was made necessary by the church's refusal to constitute associations of worship; but such painful consequences shocked many citizens. A group of prominent Protestants petitioned the Senate not to sanction a measure which disregarded an essential article of the Catholic faith, *viz.*, belief in the efficacy and importance of masses for the dead. The Senate listened to the appeal. Senator Philippe Berger, a professor in the College de France, secured the adoption of an amendment, providing that property left for masses might be

<sup>1</sup> *The Atlantic Monthly*, April, 1908, pp. 513, 514.

turned over to mutual benefit societies, founded for retired priests. These societies can celebrate the masses; and by this amendment one of the most objectionable features of the law was removed.

Taken all in all, it cannot be doubted that the church of France has suffered a great blow. It has lost its privileges and has been stripped of a large proportion of its worldly possessions, and that through the uncompromising policy forced upon it by its head. Does this mean that its situation is hopeless? Far from it. Those who have witnessed the development of the Catholic church in America, where it has had to rely on the support of the poorest portion of the population, may take courage in remembering that the church of France is still in possession of much of its equipment,<sup>1</sup> that its clergy is faithful and zealous, and that it has the support of almost the whole nobility and of a very large section of the French bourgeoisie.

Perhaps this passing crisis will prove a blessing in disguise. This loss of property, of official prestige, of temporal privilege may, after all, be more than compensated by the freedom it has recovered. The church, which was gradually falling asleep in a humiliating and deadening servitude, has been suddenly placed face to face with new conditions under which it will be able to show its right to live, its power to endure, its usefulness to the country that it claims to represent.

The régime of state subsidies and concordats—last remnants of theocracy—is gradually dying out everywhere. Whatever may have been its other merits, it never was a wholesome or invigorating régime for religion itself. The days of liberty, of free competition, of spiritual *laissez faire* and *laissez passer* have now come, and have come to stay. All the churches will be obliged to accept these new conditions or disappear: they must give in or give up.

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<sup>1</sup> "We may regard as the most important and valuable material resource the fact that the churches, with their furniture, are still gratuitously open to the clergy . . . Otherwise we should have been obliged to rent or build new churches." Félix Klein, *loc. cit.* pp. 514, 515.

## TURKEY IN EUROPE

THE easternmost of the three great peninsulas which project southward from continental Europe into the Mediterranean is at the present moment a historical laboratory. Almost every form of political and social experiment is there in progress. There are but few conceivable mixtures of human elements which have not been flung into the retort. Races, religions, languages, institutions, traditions, aspirations; governments, laws, administrations, tendencies; social forms, usages, occupations and organizations—every conception of man in social, political, and commercial relations may be concretely observed somewhere or another in that curious portion of the earth. Our fathers called it Turkey in Europe, and a part of it is still so designated by geographers. The schoolboy of two generations ago bounded it by Austria, Russia, the Black Sea, the Bosphorus, the Sea of Marmora, the Dardanelles, the Aegean, Ionian and Adriatic seas. Unfortunately at that time there was a wide-spread and firm conviction that portions of the earth shown on the map by colored border lines were inhabited by peoples corresponding to the given designations: England by the English, France by the French, and so on. Turkey, of course, whether in Europe or in Asia, was to the common mind inhabited by Turks. This conception, being utterly, radically false even then, has, like similar deceptions, persisted into our own day and still works immense harm. To those who constitute the overwhelming majority of western nations, Byzantium and the migrations of peoples in eastern Europe are matters either of the vaguest knowledge or, more commonly, of total ignorance. They are not aware that Turkey in Europe, entire, and Turkey in Asia, in part, are populated by peoples who, whatever they may be, are not Turks at all, having no slightest relation with their masters in blood, religion, institutions or aspirations. The human creature who boasts himself the plain man—the man on

the street, who babbles about anything and everything and forms the self-styled public opinion with which intelligence is in perpetual warfare—this person of the majority says: Why of course the Turks should have Turkey; certainly; what business is it of others to meddle with a man in his own home?

Home, indeed! The beneficent occupation of a land makes it a home land. The discovery and settlement of a misused territory makes it a home. We could even think of a home which had neither been conquered nor discovered, nor within historic times settled and occupied beneficently or otherwise, but which was merely a landful of people who had always been there. On the other hand, the commercial and political adventurer has no home where he dwells; the administrator of a trading factory has no home therein; the herdsman and nomad has no home in the wilds over which he roams. Even the great colonizers of the present world speak lovingly of England as home, though often they have made a wilderness to blossom a land to yield up its wealth, have founded a nation and established permanent, beneficent settlements. The idea of home is most complex, and in none of its many ingredients could it be tangential to the relation in which the Turks have stood to Turkey. They were not even conquerors, for the edifice they overthrew was already crumbling. When they occupied the Byzantine Empire they merely pitched their tents in successive camping places, wandering westward until, a little more than two centuries ago, they reached the walls of Vienna, where they met the first virile foe they had seen and were turned back. With certain oscillations they have been wandering backward ever since, slowly and steadily withdrawing under a rather gentle compulsion. They have withdrawn because others have exploited the lands which they occupied but never reduced to possession, from which they skimmed the surface opulence, while furnishing no sustenance to the processes which produced it. If the population of what is still called Turkey in Europe be, as is likely, about six millions, less than a third are Turks; and in those vast regions once under Turkish sway, the lands of Greece, Bosnia, Herzegovina, Servia, Bulgaria and Roumania, there are virtually no Turks at all. They can live

only as they find dumb, servile human cattle to herd, drive and slaughter. They are a stock which came from the upland steppes of Asia; they are careful now as always, when possible, to bury their dead across the Bosphorus in the soil of Asia. From Asia they came, to Asia they return with little regret; and being a totally unhistoric people, it is doubtful whether centuries of European abode would in their future tradition be much more than a tale of Scheherezade.

Of primitive folk-stocks the Turk has retained nearly all the virtues, and they are many—so many as to make a normal Turkish gentleman a most agreeable and even lovable person. With his womankind uncontaminated by western notions; with his faith in Islam—a faith not native but acquired and inherited—undisturbed either by Arabic mysticism or occidental casuistry; with his pride of official rank and garb fully gratified or with scope for his unquestioned and oft-proven ability as a soldier, the Turk exhibits many fine qualities. It matters not that his salary as an official is never paid; there is the land of Baksheesh always open. It matters not that the shelter which we call his house is bare, rickety or in disrepair; is he not naturally a dweller in booths or tents? It matters not that his towns are filthy and unwholesome, that disease and death stalk abroad; his hour will strike only when fate ordains, as it would anyway. It matters not that there is plenty to-day and want to-morrow; such are the vicissitudes of life. If it rains, we are wet, that is all, but if the sun shines let us enjoy it; when battle is raging let us fight too, so Allah wills, and so on through the long range of human conditions and conduct. To apprehend a resignation that verges on apathy we must reverse almost every concept we have; in order to understand and do justice to the Turk, we need a fourth dimension. He is our antipodes. But he is domestic, hospitable within his possibilities, companionable, interested in you and in such life as touches his interests; he has a dignity, a repose, a pleasant way which are delightful. Above all, strange as it may sound, he is the most tolerant of all human beings. There are in Turkey more faiths, sects, denominations and religions, more license in profession and behavior, than in any other territorial expanse of equal



size. If only the adherents of these various cults pay, often and enough, and if only they do not in act, word or precept subvert existing rule and order, nothing else matters at all. Islam is the most democratic of all natural religions; there are no orders, no priestly intermediation, no governors, no hierarchy of any sort. The naturally independent temper of the Turk is thus confirmed by his faith. There is the caliph, the padishah, the embodiment of theocratic power; and then there are all the rest, exalted or humbled, enriched or impoverished, preserved or destroyed, kept alive or killed, regulated in every relation of life by a power and conditions that affect all alike; birth, inheritance, fealty, no such mere accident counts in life at all. Tolerant and democratic—both in a contemptuous sort of way—the Turk is also in ordinary life a kindly, gentle soul. His women-folk are under no compulsion or discipline, he is generous to the very utmost; his slaves are scarcely aware of their bondage, so easy is the yoke. With divorce dependent upon his whim and accomplished by his own unfettered will, the rearrangement of domestic relations is so easy that social conditions are scarcely disturbed. A disordered mind makes its unhappy owner a public charge; beggars are humored, tolerated and supported by alms, especially the halt, the maimed and the blind; the dogs of Constantinople drive ladies from the sidewalks and make vehicles swerve by their sluggish inertia. Easy indifference and a liberal soul combine to make Turkish life a thing apart; a sort of genial inefficiency permeates it all. Yet beneath it is the volcano of indiscipline. Guile and the oiled feather first; then, if thwarted, fury and recklessness. Smooth promises with perpetual delay; then performance under compulsion with the Parthian arrows of atrocious bloodshed.

Some such characterization, however imperfect, is essential to any grasp of the first principles of Turkish rule. In the apogee of its extent and greatness, those who immigrated and seated themselves as the mighty were in a minority, as were the conquering Teutons in the western provinces of the Roman Empire. In the exercise of a fanaticism both physical and spiritual, they simply took what they found. The people on the soil were

reduced to a dead level of peasant boorishness, the ruling class stripped land and people of all they dared to take without destroying the wellspring of supply.<sup>1</sup> The arbitrary childishness of Turkish behavior to-day is probably a fair sample of what it always has been. After years of contact with western ways they have, to be sure, acquired something of European shiftiness and duplicity, but it has served merely to strengthen their own naïf rascality. My dragoman tells the customs inspector not to tumble the contents of my trunk; the police inspector discreetly turns his eye another way; the trunk is closed, and in a few moments the official comes trotting to receive his "gift," which he divides with him of the blind eye. This is the whole system in miniature: the feint of honesty, the practice of roguery, a pretence of knowledge, the crassest ignorance in fact. The Ottoman Empire has army, navy, police, treasury, foreign office and all the paraphernalia of administration, internal and external. From beginning to end the whole machinery is an empty form, a mill that grinds no grist; and the palace clique or camarilla or kitchen cabinet, or a harem intrigue or the sultan's wish determines the course of all affairs. The Parliament met once, was adjourned, and for the ensuing thirty years has never met again. It was not prorogued, it was merely adjourned; and so there is a constitution and a constitutional monarch—in name, as is all the rest. Warships float, but no one would risk the firing of a gun on board. When the United States grows restless in the demand for an indemnity due for the destruction of American property, a cruiser is ordered from some American shipyard; it arrives and anchors in the Golden Horn, where it ends its days in peace; the published price contents the Turks and seems, somehow, to cover the indemnity to us.

As is well known, the sultan, caliph or padishah, as he either styles himself or is styled, rarely leaves the enclosure of his royal borough, known as the Yildiz Kiosk. Within its carefully guarded, spacious enclosure, in its palaces and gardens he

<sup>1</sup> Just who and what these invading people or peoples were, just who and what the settled peoples were, it is not easy to determine.

abides. Thence he reigns and rules; and, claiming to be the successor of Mohammed, he performs public worship at the ceremony of the selamlık in a pompous procession and recession to the near-by mosque he built for the purpose. Impressive as a spectacle, the selamlık is also impressive as a historic act; for in it Abdul Hamid appeals to the millions and millions of Islam as perpetuating its power and its system. He has not a single attribute which entitles him to arrogate the headship of Islam to himself, and millions of the faithful refuse their fealty. But many millions more passively accept his lordship and admit the sanctity of decrees issued by his religious viceregent, the sheik-ul-Islam. It was therefore an awful thing when a miscreant found his way into the very heart of Yildiz Kiosk and, during the selamlık, flung a bomb, the dastardly weapon of anarchy. But the thing did happen, and the momentous question arose as to how dynamite had been smuggled into the empire. What actually occurred sounds like a joke; but with a few other examples it may serve, being a fact, to illustrate what manner of men still rule at Constantinople. For years a British merchant had been importing and selling fireproof safes. A new consignment was in a ship just arriving. He was summoned to the customs stores to "open" them; for a wily official had guessed and suggested that the dreaded explosive had been concealed in these safes, and that more might be found in the newer ones. The owner appeared, glad to comply, and threw open wide the doors. The matter was not so simple; "opening" meant displaying the packing between the steel walls; and so with sledge and chisel the whole consignment was destroyed, and there was no redress. The familiar finance where the lender gives fifty and the poor, eager borrower writes a hundred in the bond was long employed by the great usurers of the West when Turkey wanted a loan. Neither principal nor interest being paid, a result foreseen by the original parties, the various countries of Europe intervened in Turkish finance to "readjust" the debt for the creditors, a class of unsuspecting investors upon whom the obligations had been unloaded by the negotiators. So there exists in Constantinople a board composed of highly paid gentlemen, all but one from

the West, who take a certain proportion of the customs into their own hands for paying interest and refunding principal. Compared with those in our own Utopia, the customs dues in Turkey are (or rather were) trifling, averaging about eleven per cent. To the Porte, looking abroad at the triumphs of protection elsewhere, it seemed desirable to fill the official purses by raising the tariff an average of three per cent more. There was a mighty deliberation in all the state departments of the Occident. At last the measure was permitted, since the coffers of the commission in charge of the public debt would also profit thereby. But many, many papers must first be signed in the ends of the earth before the law promulgated by the sultan could be operative. The ambassadors of the western powers deliberated day by day on the administrative measures. Meantime the sultan received an invoice for glass-ware purchased in France, and to be used at Yildiz. No duty of course was to be paid on that. A high official, chief of the secret police, was sent to enter it. His mission was promptly and successfully discharged, but not merely his original mission: the great man, finding at the receipt of custom a large amount of money which the collector had received in the regular way for dues, carried off not only the imported service of glass-ware, which was his master's, but the money, too, which was also, as he considered, his master's, and was moreover greatly needed at Yildiz. The news of this characteristic behavior swiftly reached the meeting-place of the ambassadors; and Sir Nicholas O'Connor, who was the latest signatory of the new tariff, hastened to the wharf and, finding the news true, at once withdrew the precious sign-manual which gave British consent. Consternation seized the high officers of his Ottoman majesty: why such supercilious behavior, such needless fuss about details? But they yielded, and the vital negotiation was at last concluded, with administrative arrangements to preclude the repetition of such naïf proceedings by Turks in Turkey. Why multiply instances? A professor entering Turkey from Greece has his Persian powder confiscated as an explosive; a trading firm sending into Asia Minor for eggs is suddenly confronted with total loss because, while the permit for eggs is correct, that for wood,

the material of the cases, is not. And so on and so on. It is vital that the degrees granted by the American school of medicine at Beirut should have official sanction. No trouble whatever to get the imperial decree; but the members of the commission are Turks of rank, and as such may not easily pass from place to place. Every year it is a matter of complicated negotiation by the American ambassador to secure for them the right to proceed on their official business, for which they have been duly and legally designated by their august and all-powerful master. It is very hard to believe that the machinery of oriental government is as simple on the surface or as intricate in its workings as it appears merely by reason of incapacity. The subtle oriental mind finds its account in its efforts, or apparent efforts, to apply worn-out schemes to new conditions. At any rate Turkish rule has survived expectation by half a century, and it is its very absurdity which seems likely to perpetuate it indefinitely, with the aid of a more or less perfidious rivalry among the great powers of the West.

Comprehension of the oriental question by western peoples is further impeded by their total failure to grasp the meaning of current terms, in particular the terms "nation" and "Christian," as employed in the Balkan peninsula and in Asia Minor. There are large numbers of Europeans in both: some are there for religious purposes, as missionaries, others for purely secular reasons, chiefly commercial. While there seems no real hostility whatever between these two European groups, yet they see things from a different angle and have widely varying opinions about many things. The latter class, with no exception, as far as known to me and several other travelers whom I have consulted, considers the ruling Turk vastly superior to the so-called Christian peoples over whom he rules. Appearances are that way. In general a tyrant, whether patriarchal, theocratic or merely personal, is more human than those whom he oppresses. The Ashkenazi Jew, so called, whether he be really an Israelite or not, which is doubtful, when first emancipated from the horrid cruelties inflicted on his race in central Europe for centuries, continues, sometimes for a generation or two, the unpleasant practices by which he mitigated his bondage; but

he finally becomes as little of a presuming parvenu as men of other blood, and as often exhibits the highest virtues of social life. This example is all around us. The subject populations of Turkey were and are styled rayahs; age after age they have been held in bondage, sometimes easy, generally most oppressive. Bond slaves find the practice of noble qualities extremely difficult. Some rayahs kept the faith of their fathers, others sought to mitigate their hard lot by professing Islam. In all the provinces once or still under the sultan there are some Mohammedans, and in a few there are many, who have not a drop of Turkish or Arabian blood in their veins, being pure Aryans or Japhetites or Javanese or whatever adjective best describes them. In Herzegovina and Bosnia together they number about half a million. Though most carefully and considerately treated, they demand that their religious head shall be appointed from Constantinople, thus refusing incorporation in the Austrian system. The Mohammedans of Asiatic stock, Turks or Arabs, have mostly returned to the land whence their fathers came. The question of superiority can therefore be answered only by comparing those who were once rayahs, but are now independent self-rulers, with those who still rule in unemancipated lands, rulers with rulers. Of the result in the case of Bulgaria and Roumania there cannot be a question. Bosnia and Herzegovina are under Austria's iron hand; Servia, though longer practiced in liberty, inherited peculiar conditions and has once horrified the world by the outburst of her unbridled wrath against a faithless king. The European peoples once subject to Turkey are therefore not of necessity Christian either by profession or practice, however widely they differ in many respects from the Turks. Moreover they designate themselves as nations, using that word in a sense of their own: a sense similar to that in which it was used in central Europe during the middle ages. Nationalities would be a better word.

It is sometimes and rather cleverly said that America is New Europe. In whatever respects that may be true, in one there is an antipodal contrast. We are busy making, out of many widely different elements, a great nation, unilingual and homogeneous. Europe, having passed that way in the unification of

France, Germany and Italy, is now returning on its footsteps, and the passion for little nationalities is exhibited on every side. We are all familiar with the Irish question; we note with wondering interest the revived study of the Celtic tongue in Great Britain and the emphasis on institutions of another age. In Belgium the Flemish stock struggles for its language as never before. In Provence the revival of Provençal literature, so long cherished, is now followed by a blind struggle against total assimilation and by a demand for a measure of local independence in the interest of local industry. Throughout the Austro-Hungarian monarchy everyone of the eighteen or more petty nationalities is asserting its right to live for and rule itself. The question of Sicily gives the house of Savoy at Rome much to consider, and separatism in the German Empire furnishes themes for its journalists. Everywhere on the continent of Europe it is the same story, while simultaneously there is a growing nationalist agitation both in Egypt and in India. This is the movement which brought Roumania, Bulgaria and Servia into a more or less independent life; it is the movement which is still surging throughout Turkey in Europe and has created the now burning question in Macedonia, whence comes as of old the bitter cry: Come over and help us.

There is no use in describing the whole stir and struggle for nationality as senseless, a common designation which perfectly describes it to many minds. It is not senseless; the agitation is real, has produced vital results of a constructive kind and at this hour underlies outbreaks of bloodshed and horrid cruelty in lands that are fair, among people who are innocent, capable and urged onward by noble instincts. The dispersion of peoples each with its own language is represented in the Scriptural account as a curse laid on men for high treason against Almighty God. Europe is doing its utmost to perpetuate the curse and make it lie heavy on millions of innocent men. Were science and its votaries modest, did theories affect the academic world solely, small harm would be done by self-appointed teachers. But ill-considered, unproven doctrines, by dint of iteration, are made to succeed each other as accepted rules of human conduct. Among many others the theoretical reconstruction of

the Aryans, of the Turanians and of the various subdivisions of the same has been distorted from a useful hypothesis into a maxim of moral guidance. Out of it have sprung the baneful all-Slav, all-German, all-anything movements: devices one and all of dynastic land-grabbers eager to use an unselfish and romantic sentiment for their selfish ends. No man knows at this hour what is a Greco-Roman, a Celt, a Teuton or a Slav. The philologists know the languages and language groups, but no man of standing has ever dared assert that the use of a language proves the blood in the veins of its user. The movements of peoples, the origin of races, the transitions from type to type or the persistence of type—all these are mysteries. But men behave as if they were as concrete and usable as the multiplication table. In western Europe there were types so strongly developed that at least there was some excuse for the common error. But when the doctrine spread eastward into less educated societies, it began to work and is working havoc with the gains of civilization. To use among such men and women phrases which contain the words, "nation," "people," "patriotism," "history," *etc.*, is to sow the whirlwind. When we read that the Roumanians are Latins; that the Bulgarians and the Servians are Slavs of different nationality; that Macedonians are Bulgarians or Servians, according to the opinion of this or that writer, or that they are Greek, as Greece contends, we get the common coin of diplomatic exchange; but it is spurious and counterfeit if passed as historical truth.

There was little interest as to the nationality of the rayahs while Turkish rule was strong. They were nearly all Christians of the Byzantine type, those in Europe at least, and were hence regarded as one people, for oriental theocracy cannot conceive of nationality apart from religion. They themselves knew the differences in their origins and in such traditions as they had: some were Slavs, some Vlachs and some Albanians; some had the blood of Trajan's legionaries in their veins, whatever that was. But they felt more deeply than they thought; the hardships of their common lot and the common worship of their church gave them a stronger sense of unity than of disunity; they were all non-Moslems, all rayahs, and in a sense all Greeks.



Moreover among the most useful servants of the sultans were the old Greek Byzantine families who lived at Constantinople in the quarter of Phanar. These Phanariotes were invaluable as administrators and diplomats; resourceful, guileful, smooth, elegant, refined; and for their precious services they received great rewards. They were the Greeks *par excellence*; and, running to and fro within the empire, to and fro without, they impressed upon all that if there were a second race destined to restore the empire of Grecian Rome, they, their coreligionists, those who spoke their tongue, were the people. Hence within the memory of men still living it was the general conviction that a greater Greece would one day hold all Turkey in Europe, and that the light of Greek civilization, rekindled in Attica and on the Peloponnesus, would shoot northward to enlist the whole Greek church within Turkish boundaries in the "great idea," to wit: the restoration of Byzantium in new and regenerate form. This is still the great idea of that portion of Turkey first to be emancipated, namely the present kingdom of Greece, whose inhabitants speak a renovated Greek or Romaic, live on the ideals of ancient Greece and have with set purpose forgotten the Albanian, Slavic or other blood that flows in their veins. Coming from the West, travelers differ widely about the advance of modern Greece in western civilization; but one familiar with the Orient and coming to Greece from that quarter realizes the enormous progress which the little population of about three millions has made in unifying, elevating and purifying itself for the task it has set itself. So far the Greek government has made nothing but tactical mistakes, and Greece has gathered no fruit from her national regeneration. But she bides her time; and the agitations among the Christian populations still left to Turkey in Europe are attributed in large measure, and in all likelihood correctly, to supplies of Greek men and money.

What and who are these modern Greeks? The most skeptical investigators admit that in most of them is some blood transmitted from ancient Greece, and that there is a proportion of Greek descent in Greece about equal to that of Anglo-Saxon descent in America. For the rest the modern Greeks are either Albanian or Slav or Vlach. Beside

the Greeks in Greece there are other Greeks who far outnumber them. They are found on all the coasts of the Ottoman Empire; Crete and the other islands nominally or actually under Turkish sovereignty have no other inhabitants important in numbers; they are numerous in Asia Minor, in Syria and in Egypt. That they have a national type and a national character is undoubted, and they estimate their numbers at nine million. A certain rather small proportion in Asia and Crete are fanatical Moslems; of these many use the Turkish language written in Greek characters. But for the most part these Greeks are faithful Christians. While domiciled elsewhere they are passionate in devotion to the Greece they style Hellas, the modern kingdom whose people are called Hellenes; and, being masters of commerce and finance, many of them have gained enormous fortunes, from which they pour great sums into Athens particularly, but into Greece generally, for public buildings and endowments. To the outer barbarians who later deluged it, the East Roman empire, Greek as it was in speech and character, was known as Rome or Rom or Rum. The language spoken there has never ceased to be spoken. After eighteen hundred years of devolution or evolution, according to the point of view, it is still spoken by these millions, and, for the reason just given, it is by them called Romaic, to distinguish it from the Hellenic, which means either pure old Greek, or the modern written language of educated Greeks in Greece, a language really renovated and cultivated by enrichment from classical Greek. In this remodeling, modern Greek resembles modern Norwegian. The passion for nationality, equally strong in the extreme northwest and southeast of Europe, has in both had recourse to the same means for securing apartness and distinction.

At first sight it seems very curious that the national costume of modern Greece was adopted or adapted from that of a stock not Greek at all, a little folk the most remarkable of the European continent, *viz.* the Albanians, a people, as far as we know, absolutely without any affinity whatsoever with any other, whether of race, speech or institutions, still using the oldest known European language, retaining, without unity of religion, habitat

or manners, a unity of nature, appearance and character which sets them absolutely apart from the surrounding populations, with whom they mingle freely but do not coalesce. The explanation is that in a high sense they are the makers of modern Greece. Their name was given them by the ancient Byzantines. They divide themselves into northerners and southerners: Ghegs and Toscs. The former number a million or more; they are about equally divided, confessionally, between Roman Catholics and Mohammedans, these latter being the aristocracy; they are haughty and exclusive, living like highland clans in their mountain fastnesses. The Toscs, on the other hand, entertain many Greek and Vlach settlers within their territory and mingle freely with their neighbors. The Ghegs have furnished the two national heroes, Scanderbeg (+1467) and Prenk Bib-Doda; but the latter, after brilliant feats of arms in 1881, was drawn into the service of the sultan and lost caste. While the Ghegs are renowned for their independent spirit and warlike temper, the Toscs have furnished the warrior best known in our day as a Greek hero, Marco Bozzaris, who with his Suliote band did noble work for the liberation of Greece. The Toscs number less than a million. They are partly Moslems, partly Greek Catholics. There are therefore three confessional authorities among the Albanians: the sultan or caliph, the patriarch of the Greek church at Constantinople, and the pope. But the Roman Catholics notoriously behave as they please. The obedience of Albanians to any authority is dubious. They defied the Congress of Berlin, refusing to Servia and Montenegro the districts and towns of their land assigned by that august body to those states. They prefer the slack rein of Turkish rule, and for them that rule is hardly more than nominal. Now and then an army from Constantinople has bested them for a time, but they are restless under control and make trouble when they are not left to themselves, as is the case just now. They are superbly built, active and enduring, ready alike for peace or for war, with excellent qualities of heart and mind. Roughly, the territory they assert as their own corresponds to the Epirus of ancient Greece; and it is needless to say that learning and culture have made no greater progress in this province than they had in the days of King Pyrrhus.

But if modern Greece owes much to the Albanians, it seems as if her ambition were quenched, her destiny thwarted, by the rejuvenescence of another folk-stock which is not even approximately indigenous but within historic times has come from afar. It is called Slavic because it uses a Slavic tongue, a language which the immigrant nomads brought with them and gradually forced upon populations which had known Roman culture. These populations were in a measure Aryan, that is, related in speech and structure to other Europeans, but with them was intermingled generously a middle Asiatic race called Bulgars. These elements gradually melted into one stem, which now comprises Servians, Illyrians, Croatians, Bosnians, Herzegovinians, Montenegrins, Macedonians and Bulgarians. The two districts of Moldavia and Wallachia, which form the present kingdom of Roumania, successfully asserted themselves against the wandering hordes of Slavs, retaining their Latin speech and keeping their Roman-Moesian blood fairly pure. Surrounded on all sides by Slavic-speaking peoples, they have not escaped Slavic influences in vocabulary and social qualities, but they are as pure a race as any other, not a recently mixed one, as are Turks, English, Americans and their own Bulgarian neighbors. All these strata of the same mass were in one way or another brought into the fold of the Greek Catholic church. After the fall of Constantinople certain of their communities became Moslem; and in both Serbia and Bulgaria, even in Bosnia and Herzegovina, they so remain, although, as has been told, they exert no important influence. Iteration makes impression, and it cannot be too often repeated that in important times and places creed has determined nationality to the exclusion of all else. It does so still in the disdainful Turkish mind, the millet or faith unit being likewise the Turkish unit of administration. Thus for ages all Greek Christians were considered as both an ecclesiastical and a political unit. The Slavs of Turkey have been the intermediary through which the antipodal conception has prevailed and language has been substituted for creed as the test of nationality. Bulgaria is struggling to emphasize slight differences—differences which seem negligible to curious outsiders, such, for example, as the place of an

article, or rather particle, prefixed or suffixed, or the use of old Slavic in the service book of the church, or the designation of an ecclesiastical overseer as exarch instead of patriarch—not only struggling but almost exhausting itself in the struggle to make these serve as a sanction for a nationality ambitious to control the Balkan peninsula. In this the un-Aryan, central Asiatic origin of the people reveals itself: the tribal concept is a stirp which, running under the surface, sends up hardy shoots at unexpected intervals. The notion of a nationality based on both language and creed Bulgaria has absorbed to the exclusion of every other; Servia, on the other hand, emphasizes blood and social institutions as the basis for determining nationality. It too has a national church; but the Servian church recognizes the patriarch at Constantinople as superior to its own hierarchical head, while the Bulgarian church stops with its own exarch and knows no superior.

Hence all the woes and sorrow and cruelty in Macedonia. This situation has indefinitely postponed the restoration of New Byzantium, the erection of a Greek imperial structure with its administrative centre on the Bosphorus. Its immediate result, however, is the heart-breaking situation of the people who dwell in the vales on the southern slopes of the Rhodope mountains. The population of Macedonia is even more heterogeneous than that of the lands east or west. Here are all the Slavic stocks, or rather here is the collective stock, for the lines of division are most uncertain: some Macedonians tending toward Greece, some toward Servia, some toward Bulgaria. Moreover though their language is sufficiently unitary, yet agitators and propagandists note the slightest local differences as a basis for determining whether the communities be Serb or Bulgar or possibly Greek, for in some of the communes a Romaic vocabulary beclouds the origin of the stock. The individuals thus differentiated are not very firmly anchored in what they call their nationalities: a Bulgar of the exarchate, for example, who finds difficulty today in understanding the neighboring Serb of the patriarchate, may for an adequate consideration be Serb or Greek tomorrow. The situation may at any moment be reversed by a change of conditions, and the change

is sometimes kaleidoscopic. The Sublime Porte has again and again promised such reform in the administration of Macedonia as will secure stability and peace. It will promise anything the powers demand as often as they demand. Why not? There is no intention of performance, and there would not be the slightest possibility of performance even if there were the best possible will. Beside the Slavs, Servian or Bulgarian, the Greeks and the Albanians, there is a great contingent of Vlachs, some in Epirus, some in Thessaly, many in Macedonia. These mysterious people claim to be Roumanians: they speak a Roumanian dialect, strongly impregnated, however, with words and constructions taken from contiguous peoples. They are industrious and thrifty, but they are scheming and are regarded with anxious suspicion by their neighbors. On the questions which so agitate the world around them their attitude is enigmatical; but, like all the rest, they are far from resigned and obedient to Turkish rule in any degree. In the main they, like the Albanians, lean toward the Greeks, although, again as in Albania, there is a minority party otherwise disposed. Although widely different in habits, some of them living in villages while many are nomadic herdsmen, there is no question as to their essential unity.

This distracted country, therefore, is almost an anthropological museum; only, the specimens are shown in a chaotic mechanical mixture, not in orderly arrangement. Encouraged by the examples of the three Danubian kingdoms, and especially by the experience of that anomalous portion of Bulgaria known as Rumelia, which fell off from Turkey with no battles except those of words, the natives of Macedonia long for deliverance, for entrance into the promised land of self-administration. Over the borders there are Servia, Bulgaria and Greece, all beckoning, all lusting for increase of territory, wealth and population. Of the three Bulgaria has so far the advantage. It began to woo soonest; its language has certain suffixes like those used in Macedonia; it has a church using Slavic in its service and taking no minutest direction from the Turkish capital; and, above all, it has, in the year 1908, an army of high morale, thoroughly equipped and drilled, quite ready for a coup

like that which made Rumelia Bulgarian. On the other hand Greece has the money; and those who know Macedonia best declare that most of the agitation is due to unscrupulous bands that are half bandit, set on foot and supported by Greek cash. Servia keeps her movement of agitation going, but her home affairs are a serious detriment to her ambitions. At the present moment the ablest Servian writer is contending that there are in Macedonia lines of division, racial, territorial and linguistic, and that the rivals should end their rivalry by a tripartite division, each taking its own. Meantime Turkey, the one most accomplished opportunist in politics, has really nothing to do except to foment race hatred and division between Christians, continuing as of yore to collect heavy taxes where resistance is either spasmodic, unorganized or thwarted by the internal dissension of the communes. There is cruelty and bloodshed and anarchy; the nominal administration probably abets it all, certainly does not stop it; but the prime movers are the agitators, either native or imported. As was said before, Turkey could not keep a single promise of reform if she would, and would not if she could. *Divide et impera*. The Servian bands, the Bulgarian bands, the Greek bands may enter Macedonia and work their will on the natives and on each other; the Turk still collects his taxes, and possibly all the more easily because of the unrest and recurrent anarchy.

The sultan appears to understand fairly well the game of European politics. Such extraordinary performances as take place within the Austro-Hungarian empire can not escape his notice. German against Slav and Magyar, Magyar against Slav and German and Roumanian, dire dissensions even among the Slavs themselves, all in the sacred name of church or nation or language or race or whatever it may be—such a mess of centrifugal forces apparently does not make an Austro-Hungary very strong for external affairs. Yet the destiny of the "eastern realm," which is what Oesterreich means, is in the minds of many both without and within it down the Danube. Russia is never idle in the use of Pan-Slavism for her purposes, and by far the largest number of inhabitants in the Danube valley are Slavs. There is a Slavic society, claiming an immense mem-

bership, of which the president is a Roman (not Greek) Catholic Russian general, continuously wooing these populations in Russia's interest. Its agents fulminate in books and papers against the sorrowful effects of the "sauerkraut and sausage" civilization forced by Austria on the long-suffering Herzegovinians and Bosnians. Then there are the three quasi-independent kingdoms, which heartily detest one another, but would probably federate against either Austro-Hungarian or Russian predominance in the Danube valley and their peninsula generally. These are the nearer cares of Sultan Abdul Hamid, but he prides himself on his intimate acquaintance with the international jealousies of the powers further west, being firmly convinced that the very existence of Turkey in Europe since 1877 is due to his tact and nice discrimination. He is keenly aware of what public opinion in the West can accomplish and of how it is formed. But he is convinced that, constitutional government being everywhere a name and a form, the true Turk is less of a hypocrite in his absolutism than the head of any monarchical democracy.

Abdul Hamid himself is a contradiction, utterly inconsistent and incomprehensible to the western mind and likewise, as far as our information goes, to the oriental mind. On the one hand his interest appears to be mainly European, and he makes on occasion a great show of the very slender western culture which he possesses. He musters all his charm for those who represent the West, makes desired concessions with the most gracious manner, appoints the friends of his friends to pleasant and lucrative positions in the Ottoman service, emphasizes the position of his empire as a European state and carefully attends to the question of alliances. After having been, as was his father, almost under the tutelage of Great Britain and her remarkable ambassador Lord Stratford de Redclyffe, after having vented his bitterness upon her ambassadors when Egypt was occupied, he has concluded that Germany and the German emperor are most likely to perpetuate his power for a few years over what is left of European Turkey. Yet, for perfect play in such a game, much is needed which either wilfully or ignorantly he leaves undone and does not attempt. His true life is



in the other and true side of his character. Privately he is most attentive to the Moslem traditions and to the practice of polygamy; and the seat of Turkish power is under his tarboosh, not in the divan of his ministers nor in the great administrative departments, whose palaces form a feature of the capital city. In the place and almost to the exclusion of the anxious patriot proud of Turkey's past, eager for her well-being and desirous to reform a rotten administration, there appears from time to time the wilful, impatient, crafty, timid tyrant of oriental tradition. Mewed up for all the days of the year, except perhaps half a dozen, behind the enclosures of Yildiz, he makes all his public appearances in connection with the faith and practice of Islam. Though his ultimate fate depends on the Occident, his prestige depends on the Orient. He has not a single claim to be caliph, being neither Arab nor lineally descended from the prophet nor chosen by the Mohammedan world; yet by dint of assumption and agitation he is so recognized by a majority of the orthodox. The Shi'ite Persians of course loathe the Sunnite orthodox, whether the sultan be caliph or no, because they prevented the just succession of Ali the prophet's son in the caliphate; but the agents of this usurping Turk are found everywhere else throughout the Moslem world working in the interest of Pan-Islamism, with the sultan as caliph and recognized head. In India, Central Asia and China, in Java and in Africa, even in southern Russia, they move the faithful to enthusiasm for the sultan as the successor of Mohammed. This is his anchor to windward, and it gives him a strong mooring. It is not forgotten by him that both Great Britain and France have innumerable subjects, fanatic Mohammedans, who would see in violence or even in a slight to the sultan a sacrilegious act against their cherished faith. It is for this reason that the weekly prayer which Abdul Hamid makes in his own modest, personal mosque of Yildiz is the occasion of a ceremony, alike military and religious, devised and performed to impress the whole world of Islam. In this half-hour's performance he is not the exquisite European who has traveled, who knows men and lands, who identifies himself with the general welfare of Europe and the West; he is the theocratic ruler

over the fate and fortunes of millions upon millions of the world's elect, who alone have life, light and immortality, who are sure of a world to come which dwarfs to vanishing the world that is. It is trite to observe that no man can be double, no man can be the inscrutable Asiatic despot and the genial constitutional ruler of the West; yet during the *selamlık*, surrounded by a living wall of choice troops thousands in number, he makes his effort at the former rôle. As the fine equipage dashes past the visiting tourist who has secured admission to the enclosure by the kindness of his ambassador, there is seen, sitting on the front seat, facing his sultan, the highest official of the empire. In the place of honor is a man of purest Turkish type, with curtained and mystical eyes, prominent nose and full mouth, with hair and moustaches dyed a blue-black, with square shoulders that feel the weight of care, suspicion and craft, but bear it doggedly—a man who claims from the nations, peoples and tribes of the empire the obedience due an absolute master, from all Mohammedans wherever found the reverence due to the representative of the prophet. The onlooker gets but a glimpse, of course, but it is a most impressive moment. In the devotion of approach to the throne of Allah the *padishah* sits impassive as the imperial coachman urges the splendid steeds; when he emerges from the house of prayer the sultan takes the reins in his own imperial hands, while his well-trained horses whirl him and his two attendants back to the palace and the harem.

This is the last of the contradictions to be noted in regard to Turkish rule. Viewed logically in the light of homely common sense the maintenance of such a system seems utterly preposterous. When it is realized that Christians, of churches both historic and schismatic, are oppressed by unbelievers, that the holiest spots of Christian ground are in the keeping of infidels, that savagery and barbarism are fostered and perpetuated and hideous cruelties practiced throughout this empire, that day and night the cries of the innocent, outraged and brutally murdered ascend to heaven from lands otherwise beautiful and prosperous, and that all this goes on under and by virtue of European guaranties—no wonder that earnest men and women throughout Christendom assail the ears of their rulers and cry in despair:

How long, how long? This, however, is the obverse of the shield; the reverse is quite different. Whatever was the case a few years since—and no one now doubts that Turkish soldiers were then the criminal brutes—to-day everything is changed: the brigands of to-day, who render Macedonia a hell on earth, are outlaws, supported and instigated by the self-styled “patriots” of one or other of the three bordering Balkan states; while, under pressure from the European concert, Turkish troops make some outward show of repressing the disorder. Time and the chapter of accidents are the last resource of European statesmen regarding Turkey in Europe. It is vital to peace and the balance of power elsewhere that the realm of the sultan should be kept intact. Were the four Balkan states permitted to wage open war for the possession or partition of Macedonia, the area of desolation and oppression would be indefinitely extended in time and space. Yet their clandestine war has no other end or aim. The atrocities of Macedonia, it must not be forgotten, are the work of Christians, determined to force either European intervention or a Balkan war. In the summer of 1907 the Porte declared officially that it knew of a hundred Greek bands, each numbering thirty and upward, financed by an Athens committee and commanded by Greek officers in disguise. The Serbs bring similar charges against Bulgaria and *vice versa*, with Greece reiterating like indictments against both. Europe can risk neither horn of the dilemma. The foremost interests of the West in the Hither East are commercial and missionary. Both are jeopardized by the possibility of any other rule over Turkish lands than the misrule which exists. The Slavic ideas of nationality do not include missions, either Roman or Protestant. Under the present régime these missions have a certain standing and protection. And no sooner is a new state organized than the commercial door, open under Turkish control, is closed in the face of all the great trading nations, to be opened only on the basis of preference in some form or another. England, America and Germany, therefore, have every selfish inducement to reform and perpetuate rather than to revolutionize the existing system, not only of Turkey in Asia but of Turkey in Europe. If the worst came to the worst, trial might be made

in Macedonia, as it was made in the Lebanon and Syria, of a Turkish governor responsible to the powers through their ambassadors at Constantinople. Of course this is the assumption of almost complete responsibility, but it is preferable to opening the sluice-ways of international rivalry among the Balkan states.

These states, Roumania, Bulgaria, Servia and Greece are, as has been remarked, most interesting political specimens, well worth a careful study as instances of the past in the present, of peoples working out in the twentieth century and in the Orient problems almost identical with those which occupied the West some two or three centuries ago. Neither individually nor collectively are they ripe to assume any further obligations than the weighty ones which now oppress them. Their primitive conceptions of finance and administration, above all of international relations, indeed even their rudimentary notions of what a state and a nation is, must one and all be enlarged and matured by experience. They are not ready to solve the world problem of Constantinople and determine the destiny of the Levant.

W. M. SLOANE.

## REVIEWS

*Grant, Lincoln and the Freedmen.* By JOHN EATON, in collaboration with ETHEL OSGOOD MASON. New York, Longmans, Green and Company, 1907.—xxxviii, 331 pp.

There is something altogether winning about the tone and temper of this book. General Eaton seems to have been a singularly amiable character; and Miss Mason's eminent qualification for her share in the work is clearly revealed by the biographical sketch of Eaton which she prefixes to the volume. It is very rarely indeed that one finds in a book describing the achievements of a Northern participant in the Civil War so valuable a suggestion as that of Miss Mason in this passage :

The call of our national patriotism, let us hope, is beginning to be uttered in tones, on the one hand less pharisaical, and on the other less resentful, than was wont to be its quality not many years ago. Especially perhaps at the North is there a just revolt against the tinge of moral patronage and of immoral self-complacency which sometimes marred the attitude of Northern patriots towards their fellows of the South. Such a revolt is altogether salutary; yet it suggests a special use for the modest record of a good man's work [p. xxxiii].

John Eaton was from 1862 to 1865 superintendent of fugitive slaves in the Mississippi Valley at Memphis and Vicksburg, and later, for a time, assistant commissioner of the Freedmen's Bureau for the District of Columbia. From 1866 to 1870 he was state superintendent of schools in Tennessee; from 1870 to 1886 United States commissioner of education; and in 1899 superintendent of schools in Porto Rico. The incidents of his career that he regarded as worthy of record in the volume are accurately indicated by the title: his personal experiences with the two great personages of the war-time and with the humble multitude of black men whose interests it was his duty to supervise in the trying transition from bondage to freedom.

The student of history will find the most useful portion of the volume to be that describing the author's work in the management of the freedmen. While the modesty of Eaton excludes much intimate personal detail, there appears nevertheless a vivid suggestion of the difficulties and perplexities of his task. It is not hard to grasp the em-

barrassments caused by the ignorance and shiftlessness of the blacks, the enmity of the white population of the region, and the activity of the Confederate forces; but the uninitiated reader will probably be astonished to learn what serious trouble was caused by controversy and friction between the different departments of the federal administration. Chapter XII of this book throws a very interesting light on the irruption of civil influences into a sphere that was at first purely military. The benevolent despotism of the commanding general was in most respects the best possible régime for the freedmen; where it was modified by Treasury regulations adapted to the promotion of speculation in cotton, the results were disastrous.

Eaton entered the military service at the outbreak of the war as chaplain of an Ohio regiment. His assignment to the special duty of caring for the freedmen was made by General Grant, at the beginning of the movement on Vicksburg late in 1862. Cordial relations between the two men were established at this time, and continued unbroken till Grant's death. Next to the account of the work among the freedmen, Eaton's narrative of his intercourse with Grant is the most suggestive part of the volume. Incidentally to the story of a visit to Grant before Vicksburg during the siege, an exceedingly vivid and picturesque description of a Mississippi family's experience in the neighborhood is introduced by Eaton, who adds a quaint apology which does not detract from the reader's enjoyment:

The narrative of the Shirley family has seemed to me of sufficient general interest to be reproduced here as a rather vivid picture of an unusual war-time experience. I am willing to admit, however, that my judgment in the matter may possibly be somewhat biased. . . . I afterwards married Miss Shirley [p. 85].

Eaton's record of his relations with Grant is uniformly favorable to the latter's good reputation as a man and a statesman. All the circumstances would naturally tend to such a result; for it was Grant the general to whom Eaton owed all the preferment which raised him from chaplain to brevet brigadier-general in the army, and it was Grant the president who made him commissioner of education. There is no reason to question, however, the sincerity of Eaton's judgments. He makes no pretense to infallibility or omniscience in respect to Grant's career, but merely states the conclusions formed from his own observation. The personal traits of the great general—his modesty, purity, firmness—are presented as they have been presented by other intimate friends. As a statesman Grant is held by Eaton to have achieved as

much as any man of the same time and place could have achieved. Especial weight is given, and justly, to the policies of the two administrations, 1869-77, in respect to the Indians, education and foreign relations. While the purpose of Grant in these fields and in that of civil-service reform had in it all the wisdom and patriotism ascribed to it by Eaton, there is much less certainty than the book indicates that the methods by which these policies were formulated and promoted add luster to the president's political reputation. Especially dubious is the credit assigned to Grant for avoiding a rupture with Spain over Cuba. It is of record that a rupture was avoided only by the insubordinate act of Secretary Fish in ignoring an explicit command of the president. If Rawlins had lived, there is hardly a doubt that we should have had war with Spain in President Grant's administration.

A considerable mass of experiences with Lincoln throws practically no new light on that great president's character. Eaton was used, as others were, to procure information in 1864 as to whether Grant had political ambitions. The frankness and utter lack of reserve with which Lincoln discussed political men and measures with practical strangers amazed Eaton, as it amazed many others. Especially astonishing was the president's reply to a comment on the harmonious relations with his secretary of state: "Seward knows that I am his master!" To one who, like Eaton, had been dismayed in 1860 by the nomination of Lincoln instead of Seward and who knew nothing of the now famous incident of April 1, 1861, this remark was naturally very startling.

It was doubtless with a deliberate purpose of avoiding the narration of experiences that were in retrospect exceedingly unpleasant that General Eaton decided to pass over with but the slightest reference the years 1866-1870. During this period he edited a Republican paper in Memphis, was a member of the Republican state committee and for a while was state superintendent of schools. In other words he was a "carpet-bagger," engaged in an effort to establish a system of public education in a community whose intelligent public opinion was bitterly hostile to the enterprise. His account of his career during this period is limited practically to the sententious remark, "the task of editing [the *Memphis Post*] at that time and place was no sinecure," and the statement that the school system was abolished in 1870. One who knows in a general way the character of Tennessee politics under the régime of Parson Brownlow will appreciate what lies beyond this very summary comment and will inevitably regret that General Eaton failed to expatiate on this part of his career.

W. A. DUNNING.

*Our Struggle for the Fourteenth Colony: Canada and the American Revolution.* By JUSTIN H. SMITH. New York, G. P. Putnam's Sons, 1907.—Two volumes: 638, 635 pp.

From certain quarters we not infrequently find criticism of military history as an outgrown and useless thing. To advocates of universal peace and to those whose interests tend naturally toward the industrial or the æsthetic, wars appear as events to be passed over as lightly as possible, in order that attention should not be diverted from subjects which are of real importance. Closely related to this is the claim that diplomacy and statesmanship in their higher and broader reaches are less worthy objects of attention than the daily life of the masses. This is the demand of those who insist upon a more democratic interpretation of history, as opposed to the aristocratic trend which has hitherto prevailed. That there is a certain justification for this claim no person of liberal mind will deny. All aspects of social development are worthy objects of interest to the historian. We certainly need to know—if we can find out—what the masses have thought and felt and how they have lived.

But the criticism just referred to derives much of its point from the fact that the older historians, particularly in the treatment of wars, followed an erroneous method or no method at all. They confined themselves for the most part to the external history of campaigns, together with the diplomatic fence which preceded and followed. From this the conclusion should not be drawn that wars are of little importance and are therefore to be slurred over; for we know the opposite to be true. They are great crises in the body politic, and are always accompanied and followed by results of lasting importance. They also give rise to large bodies of historical material, which throw light on many or all phases of national life, and often furnish the investigator with means, which would otherwise be unattainable, for estimating normal conditions. What is needed is the application of a really scientific method to the treatment of phenomena of this kind. Wars should be studied administratively, and from that standpoint their history should be expounded. The writings of Captain Mahan in this country and of Julian Corbett in England furnish conspicuous examples of such treatment as applied to naval warfare and strategy. Parkman, in his day, showed a certain ability in the same direction. Professor Smith, in the work now before us, has attained success in the treatment of one of the early phases of our revolutionary struggle.

Evidence of the thoroughness of his work was afforded some years



ago by the publication of a volume on Arnold's march to Quebec. The substance of that volume has been incorporated in the present work. To it has been prefixed a study of the opening of relations between the colonists and those who, they hoped, would be their allies in Canada; of the seizure of Ticonderoga and Crown Point; of the gathering of a military force under Schuyler and Montgomery on Lake Champlain, and of their advance to Montreal. Emphasis is duly laid on the fears which the passage of the Quebec Act aroused in the minds of the colonists, and on their not unreasonable assumption that, if war followed, the British with the aid of Indians would make an attack upon them from Canada. In the light of these fears and suppositions, all the measures adopted by the Americans were made to appear defensive.

From the disastrous failure of the assault on Quebec, December 31, 1775, the narrative is continued, though with steadily diminishing fullness, until after the surrender of Burgoyne. Notice is also taken of the project with which Lafayette was prominently connected in 1778 and of the few later suggestions of a possible union between Canada and the colonies to the southward. But after the American triumph at Saratoga the affairs of New England and the northern frontier fell into the background, the seat of war was removed further south, and Canada ceased to be an issue between the contending parties. Samuel Adams, too, who at the beginning had been a prominent advocate of the Canadian enterprise, had to yield his leadership to others; both he and his policies were less regarded as the war advanced toward the later stages. With a reference to these events Professor Smith brings his second volume to a close. So far as the American Revolution was concerned the union of Canada with the thirteen revolting colonies had ceased to be an issue, and at this point, therefore, the subject to which the author has addressed himself is completed.

Two qualities are noticeable in this work which, in the opinion of the reviewer, give it distinction. One is the evidence which it affords of thorough knowledge on the part of its author of the topography of the region with which he deals. In this respect Professor Smith is a fit successor of Parkman, the knowledge which he shows of details being even greater than that of the older historian. Both writers tramped through the regions which they have described—the younger man having the aid of a camera—and the pages of both are illuminated by descriptions of nature in all its aspects, which add greatly to the zest of the story and do not detract from its essential truthfulness. Along with this, in the case of Professor Smith, goes a thorough acquaintance

with the New England farmer and his way of doing things. In this respect, as in his treatment of external nature, the present has been made to do legitimate service as an interpreter of the past. The farmer of the back-country town is still fundamentally what he was in 1776, as are the essential forms and aspects of mountain, stream and sky.

These volumes are notable, in the second place, as examples of what can be done toward the reconstruction of the history of the War of the Revolution by a thorough comparative study of the sources, accompanied by a proper understanding of the physical and social conditions under which those campaigns were carried on. The success of Professor Smith in this regard is conspicuous, but it has been attained as the result of much labor in the form of a detailed and critical study of a great variety of more or less unconnected and fragmentary sources. For the period which he covers he has had the assistance of Force's *Archives*, without which the labor involved in his undertaking would have been vastly greater than it actually was. His subject demanded only slight reference to the British forces; the emphasis is laid throughout on the colonists and the conditions under which they fought. And here the reader's attention is directed not so much to marches and armed encounters, to the statistics of camps and battlefields, as to the ways and means of gathering the troops, of furnishing them with arms, provisions and other supplies, and of moving them from place to place. The minutes of provincial congresses, of committees of safety, of the general Congress at Philadelphia; the letters of officials in civil life and of officers and privates in the army; communications in the newspapers and relations which have since been published from the pens of those who were concerned—these have all been critically analyzed, and each has been made to yield its contribution to the whole. The results of private initiative as well as of private inertia appear in their proper relations. The result is a most impressive, and no doubt a truthful picture of the immense difficulties, physical and social, which attended the waging of war by the colonists and in the colonies. No more vivid illustration of their social condition in general, with its conditions and limitations, could be given than is here afforded. Its general truthfulness would doubtless be confirmed if any other phases of the conflict were subjected to treatment as critical and thorough. Who will undertake the labor involved in a similar study of the later campaigns of the war, for which as yet we have no Peter Force as a guide?

The exuberance of Professor Smith's humor may at times offend

good taste. His estimates of individuals may here and there be faulty. It may be possible to convict him of error now and then, in some detail. But these possibilities do not essentially affect the conclusion, that he has shown by example, and that conclusively, how the War of the Revolution should be treated if its real character and meaning are to be brought out.

H. L. OSGOOD.

*British Colonial Policy, 1754-1765.* By GEORGE LOUIS BEER.  
New York, The Macmillan Company, 1907.—vii, 327 pp.

The author of this monograph has been generally and favorably known to students through his study of *The Commercial Policy of England toward the American Colonies*, which deals mainly with the seventeenth and earlier eighteenth centuries. He now takes up a period of keener interest for the general reader, the years of the final struggle between France and England; his closing chapters leave us on the threshold of the revolutionary era. Mr. Beer's predecessors in this field have been chiefly attracted to the international and more dramatic aspects of the time, the conflicting territorial claims of France and England, the rival activities of missionaries, traders and soldiers. Mr. Beer, on the other hand, has left the beaten paths of the popular historian and has placed himself as completely as possible at the viewpoint of the British statesmen who were struggling with the accumulating problems and burdens of a new world-empire. Trade, Indian relations and military power are all considered, but primarily as presenting problems of imperial administration. The opening chapters, show how the prospect of war forced the British government and its agents to consider the need of a more effective organization for defence and offence. Plans of union were in the air; but all proved futile, and the war began with the old organization substantially unchanged. As the struggle went on the old machinery was severely strained and was found inadequate at several points. The requisition system of securing revenue for defence proved ineffective, much as it did in the hands of an independent American Congress twenty years later. The situation improved with Pitt's judicious handling, but the more public-spirited colonies were penalized by bearing an undue share of the common burden. An unscrupulous trade with the enemy, either directly or through nominally neutral ports, made it harder to provision British troops and enabled the enemy to prolong the struggle. From these experiences the imperial government came out with new devices for enforcing the old trade regulations and the convic-

tion that adequate revenue for colonial defence could not be secured through the voluntary action of colonial assemblies.

In his treatment of the peace negotiations, Mr. Beer gives little attention to international diplomacy, but devotes himself chiefly to the conflict of opinion among English and American publicists. The older school, arguing for the retention of the French West Indies rather than Canada, conceived of the colonies chiefly as purveyors to the mother country and employers of British shipping. The other party emphasized the idea, whose novelty Mr. Beer has perhaps exaggerated, of the colonies as buyers of British manufactures, and stood with success for the annexation of Canada. As a partial concession to the insular party, the sugar act of 1764 was passed.

After the war, British legislation, though resting in the main upon the old policies, showed increasing desire to obtain revenue, and there were some readjustments to meet the changed conditions. Some of these adjustments are shown to have been distinctly favorable to the colonies, such as the lowering of duties on beaver and whale fins and the revival of bounties on hemp and flax. These, however, were soon overshadowed for the colonists by the tightening of the trade regulations, the restriction of paper money and the final resort to parliamentary taxation. Unfortunately for imperialist statesmen, the moment taken for this forward movement was precisely that in which the colonies began to feel themselves comparatively free from the pressure of external dangers and less disposed than ever to sacrifice provincial autonomy in the interests of a larger cause.

The author's conception of the Revolution is indicated by the assertion that the colonial struggle was "essentially a movement for national independence" confronting a counter-movement "whose aim was to increase the administrative efficiency of the Empire." Whether the change "spelt progress or reaction," he does not undertake to say. Such statements from an American writer would have tried the souls of Bancroft and his contemporaries, but they illustrate the scientific detachment with which our younger scholars are able to study the issues of that stirring time.

Here and there are theses which challenge discussion, and details which may be questioned. The essential thing is that Mr. Beer has given us a well-reasoned, and in the main convincing, study of eighteenth-century imperial problems. The book shows throughout unusual mastery of printed and manuscript sources.

EVARTS B. GREENE.

UNIVERSITY OF ILLINOIS.

*The Inquisition in the Spanish Dependencies.* BY HENRY CHARLES LEA. New York, The Macmillan Company, 1908.—xvi, 564 pp.

The series of monumental works on ecclesiastical institutions which has given to Dr. Lea the deserved title of the first of living American historians is now enlarged by one that places the scene of its action in large part beyond the confines of Europe. Serving as a supplement to the author's masterly treatise on the Spanish inquisition, the volume under review tells for the first time in the English language the story of the Holy Office in most of the Spanish dependencies. The work possesses a value apart from its study of the activities of that tribunal, for it contributes in an eminent degree to a knowledge of the colonial administration of Spain. Under the several geographical headings of Sicily, Malta, Naples, Sardinia, Milan, the Canaries, Mexico, the Philippines, Peru and New Granada, the author traces the history of the inquisition in each of these areas from its establishment to its extinction, and appends a number of illustrative documents. The scope of inquiry extends to such portions of the United States as New Mexico, Florida and Louisiana, which were formerly under Spanish rule; but the evidence at Dr. Lea's disposal does not seem to warrant a belief that the inquisition ever obtained a foothold in this country outside of New Mexico, and there only to a slight extent. Properly recognizing the circumstances peculiar to each locality, which preclude the fixing of any norm of description applicable to all alike, he examines the organization and operation of the Holy Office in its relation both to the inhabitants of the several areas and to the supreme tribunal in Spain itself. The point on which the author lays special emphasis is the opportunity afforded to the branches of the inquisition established in dependencies more or less remote from the mother country to interpret the motto "Arise O Lord, and judge Thy cause!" in a manner extremely injurious to the people over whom their dread power stretched. The baneful effects of the inquisitorial procedure, which are brought out on every page, are summed up at the close in a brief section devoted to the "Influence of the Inquisition on the Spanish Colonies." Yet throughout Dr. Lea is careful to refrain from falling into the error, so common among Spanish-American writers in particular, of assuming that either the conduct of the inquisition or the general maladministration of the colonies was directly responsible for the loss of Spain's transatlantic possessions.

To those who are interested in the theme it seems unfortunate that

Dr. Lea should have omitted the history of the Spanish inquisition in the Netherlands, Chile and the La Plata provinces. An inclusion of these areas would have rounded out the view most admirably. For the omission of the Netherlands there is some excuse in the fact that Fredericq's *Corpus documentorum inquisitionis haereticæ pravitatis Neerlandicæ* has not been completed. In the case of the two dependencies in South America the reason is less apparent. For his information concerning the other American colonies of Spain Dr. Lea has relied so largely on the works of José Toribio Medina that his failure to follow the same guide into these fields is rather inexplicable. The elaborate and scholarly investigations of the Chilean historian, indeed, have been used to such an extent that the present treatise lacks something of the quality of original research which distinguishes Dr. Lea's other productions. This circumstance, however, can hardly be a fault in the eyes of those who have no knowledge of Spanish.

WILLIAM R. SHEPHERD.

*The Censorship of the Church of Rome and its Influence upon the Production and Distribution of Literature.* By GEORGE HAVEN PUTNAM. New York, G. P. Putnam's Sons, 1906, 1907. Two volumes: xxv, 375; vi, 510 pp.

This is a subject of more than controversial interest; one which enters vitally into the history of European thought. Nor is it lacking in present-day bearings; the reviewer has a vivid memory of the crushed spirit of one of the most prominent of French liberal Catholics, a scholar of the first rank, when in his old age a book of his was placed upon the index. Protesting earnestly that he was under no delusions as to the political reasons which led a group of men whose intellectual grasp he despised to condemn his volume, he yet felt that they had destroyed his usefulness in the cause he had most at heart. Such is still the power of the Roman censorship.

The volumes before us hardly claim to be a literary history of this office of the church. Mr. Putnam has chosen rather to compile a work of reference, arranged more like an encyclopædia than in the form of a developing narrative. Few readers would persist long in the attempt to read it through; most will consult it only for specific points, by way of its table of contents or its index. Used in this fashion, it will be a welcome addition to the reference library, with its mass of facts, not merely illustrative of the attitude of the church, but also largely indicative of the varying independence of the book-trade in different times and in different countries.

It is obvious that the book is a compilation. Lists of the indices have furnished much material; and they have been most carefully worked over and analyzed. Less happy is the impression given the reader in those parts which rest upon secondary material. These seem somewhat hastily digested in parts. For instance Hilgers on Jansenism is followed so closely (volume ii, pages 227 *et seq.*) along a distracting line of reasoning that one feels at sea as to the extent of state censorship in France in that connection. There is a full chapter on Jansenism in the first volume, where the matter might have been treated, and there are sections in the second volume on Gallicanism and on church and state which touch upon it. Indeed one cannot but feel that a better arrangement of material might have been made throughout the whole work. The subject is an intricate one, and the author states that he has deliberately chosen to repeat himself for the sake of clarity. But in some cases clarity is lost by breaking up a subject for the sake of this partial treatment. The use of the index at the close of the book—which is absolutely indispensable—will perhaps largely obviate these objections; and it may not be fair to judge a book of reference of the encyclopædic class by literary standards. Then, too, the introductory chapter is an illuminating summary, to which the others form a sort of documentary appendix. Those who go beyond it will be interested in particular phases, and they can easily work them out. While not an absolutely original piece of work, it is yet the product of much industry, wide reading and judicious discrimination, and English readers should be grateful for it.

J. T. SHOTWELL.

*Die Blütezeit der deutschen Hanse.* Hansische Geschichte von der zweiten Hälfte des XIVten bis zum letzten Viertel des XVten Jahrhunderts. By E. DAENELL. Berlin, Georg Reimer, 1906.—Two volumes: xvii, 474; xv, 561 pp.

*Il Sistema della costituzione economica e sociale italiana nell'età dei Comuni.* By GINO ARIAS. Turin and Rome, Roux e Viarengo, 1905.—558 pp.

The economic history of Germany and Italy during the middle ages furnishes a particularly attractive and profitable field, in view of the somewhat specious character of their political history. The pageantry of empire or papacy furnishes less material to the student of politics than the less spectacular development of the national state in England and in France; but in the renaissance of commerce and industry which

took place in the Italian communes and Hanseatic cities the mediæval empire presents historical phenomena of the first importance. The available sources on the Hansa when at the height of its power are very full, compared with most economic history; and the main business of the historian has been to reduce them to order and to state conclusions. Indeed in a sense the history of the Hansa is rather political than economic; the economic element hardly enters into the narrative more than it does in the international relations of modern states. Documentary material is almost as rich as in the archives of national states; and the whole impression one receives from the compressed mass of facts which Dr. Daenell has extracted from them is that of a commercial republic, pushing its policies boldly and intelligently with the strong arm of economic advantage. The two stout volumes of this excellent manual are filled with a minute analysis of this policy from 1356 to 1478. The details are in fact overpowering: the work is a book of reference for the scholar rather than a manual for the casual student of economic history. It is carefully prepared, and it incorporates the main results of research on the Hansa, particularly in the *Hanseresesse* and the various volumes of the *Hansisches Urkundenbuch*. Lacking absolutely the rhetorical power of the "old masters" who have left the imperial side of mediæval German history so much aglow with romance, Dr. Daenell has made possible such a treatment by some future hand of the busy life of those northern cities, by producing a scientific guide to their activities which will be indispensable to all students of the subject. There is a careful geographical and subject index.

It is perhaps fitting, on the other hand, that a parallel survey of Italian cities should be clothed in the eloquence which was denied the German historian. This is the case with Gino Arias's admirable sketch of the social and economic arrangements of the Italian communes. But while written with more of a sense of style, with a broader outlook and sweep, it is none the less a thorough and careful examination of a peculiarly intricate subject. The author has read his sources in the light of recent controversies; and, as he passes in review the varying opinions, he supplies the bibliographical apparatus by which one can control both these and his own conclusions. Appendices of 150 pages of documents add distinctly to the value of the book. Beginning with a survey of the problem of origins, Arias holds, as against Solmi and Levasseur, to the theory of a regular and formal connection between the antique associations and the mediæval—a line of connection which he attempts to trace through changing forms and functions. The



treatment of the constitution of the *arti* and *mestieri* follows the slow formation of these organs of self-protection with sympathetic historical insight and terminates in a suggestive consideration of the whole process of social groupings as developed in the radical sociology of Durkeim. The first section of the book considers the economic bases of communal activity, the second the social consequences of these economic institutions in politics, financial and diplomatic relations, civil, penal and commercial institutions, and the philosophic conceptions of the Renaissance. It may be that the resulting synthesis is somewhat too confidently stated, but the general conclusions by which the mediæval systems are drawn into the general current of present-day questions deserve the careful attention of students of sociology.

J. T. S.

*Economic History of the United States.* By E. L. BOGART.  
New York, Longmans, Green and Company, 1907.—vii, 522 pp.

Mr. Bogart has made a praiseworthy attempt to accomplish a difficult feat, *viz.*, to bring the multiform phenomena that go to the making of a great industrial nation within the scope of a text-book. Any such treatment involves the most rigid picking and choosing of the facts to be presented. In this case the result is little if anything more than a commercial geography arranged on a semi-historical plan. In the chapters dealing with colonial conditions the author has attempted to account for experiments in land tenure, labor, *etc.*, by English antecedents; but these analogies are sometimes misleading, as when "the mercantile system," not trade jealousy, is made to account for the repression of colonial manufactures, and sometimes even fallacious, as when villenage, not apprenticeship, is suggested as the origin of indentured service. Actual misstatements are not lacking, *e. g.*, "the Navigation Ordinance of 1651" "enacted by Cromwell" and "made more severe in 1660" is confused with the legislation of 1663, enumerating articles that might not be shipped from the colonies to other than British ports.

The treatment as a whole is unduly objective, burdened by a multitude of details, and it fails to convey the impression of organic development. The interrelation of business and politics is hardly suggested. The inevitable effects of war on industrial conditions and industrial legislation is minimized. Our financial panics, so rich in significance to the student of currency and credit, receive but casual notice. On the other hand, the agricultural progress of the United States is fully and admirably treated. The enormous gains in farm acreage and in crop output,

due to our public-land policy, to the opening of foreign markets and to the application of labor-saving machinery, become strikingly apparent. Curiously enough the author gives no account of the Department of Agriculture, whose stimulating influence in the way of experimentation and dissemination of scientific methods has gone far to render our farmers the most intelligent in the world. Washington, our farmer-president, had a clear prevision of the possibilities of this form of government service, and his anticipations have been amply justified.

The author gives but scant space to first-hand authorities, while he indulges in frequent quotations from recent writers not always identified. His bibliography is a long one, but it adds few valuable titles to previous lists.

Students of economic history are grateful for every real contribution to the enormous labor of distinguishing the multiform material achievements and estimating the various social forces that have made for the industrial evolution of the United States. The accumulation of a common body of knowledge and opinion is an important preliminary to the genesis of an economic history of the United States that shall be both accurate and philosophic.

KATHARINE COMAN.

WELLESLEY COLLEGE, MASSACHUSETTS.

*Parzellierung und innere Kolonisation in den sechs östlichen Provinzen Preussens, 1875-1906.* By MARTIN BELGARD. Leipzig, Duncker und Humblot, 1907.—541 pp.

This book brings up to date the story of the Prussian government's long-continued attempt to establish German colonists in its eastern provinces for the purpose of displacing the Polish population; and it is especially timely just now, when the government, baffled in its efforts, is seeking to adopt sharper methods and Poland's great novelist is asking the sympathy of the world for his oppressed countrymen.

For some years, the government carried on its work of settlement through a general commission in coöperation with private agencies. But in 1886 it adopted a more vigorous policy and established a settlement commission, which has practically taken over the work of colonization and has received grants amounting to 350,000,000 marks. The work of the commission has been to buy estates in the Polish provinces and, after subjecting them to more or less improvement, to divide them into small holdings, on which German settlers are placed. It provides the settlers with schools and churches, and fosters in every conceivable way their economic and social life.

All this has been done for a political object—the literal crushing-out not only of Polish sentiment but even of the Poles themselves; and it has naturally aroused vigorous opposition on their part, which has taken the form of a counter-colonization movement. The Polish settlement societies are aided by excellent coöperative banks, which were established for the purpose and to which Polish artisans in German towns send back their earnings to enable their countrymen to buy land. The Polish peasant also deposits his savings in the banks; and to his intelligence and thrift must be attributed, in large measure, the success of the enterprise. So successful has this counter-movement been that, in 1904, the government attempted to crush it by prohibiting the erection of new farm buildings by Poles; but they evaded this law by making use of old buildings and by enlarging existing holdings.

Polish opposition is but one of many obstacles encountered by the commission. Acceptable settlers are hard to get, for there is no real demand for land, and the artificial inducements offered often cause serious disturbances in land values and consequent opposition to the government's policy in the localities from which settlers are drawn. In the earlier years, Germans returning from Russia were used in settlement; but they proved undesirable and this fruitful source of supply was abandoned. Nor did the difficulties disappear with the placing of the settlers on their holdings. If they were to remain German, every effort must be made to foster their community life. As far as possible, for example, people from the same locality and those of the same religion must be grouped together. The holdings had to be small, since the attempt to bring in German labor failed and the employment of Poles would have defeated the end in view; and, moreover, men capable of handling larger holdings naturally preferred to be independent of the government. The colonies have therefore suffered from the lack of men of large affairs to assume the leadership. The commission's failure to provide adequate reserves made it impossible for the settler to procure more land, thus taking away the spur to thrift, and, more important still, forcing the children to seek work in the towns, never to return. But even if the settler had the opportunity to buy land, he is so hopelessly in debt that it would be impossible for him to do so. While coöperation in all forms is successfully practiced by the Poles, it languishes among the Germans, owing partly to local conditions, but largely to the fact that wherever the hand of government touches self-help it blights it.

The economic condition of the German settlers has indeed been greatly improved by the recent establishment of land banks, which

virtually buy their holdings and sell them back on time, under favorable terms as to right of foreclosure and interest. Many thriving colonies are to be found and many worthy people have been helped to obtain land. Nevertheless, the movement as a whole, whether it be regarded from an economic or from a political point of view, must be considered a failure. The commission has expended all of its 350,000,000 marks, but the relative number of Poles is larger than at the beginning of its activity. Moreover the Poles have prospered, and their competition has caused land prices to increase twentyfold, so that the commission has sometimes had to pay for land from one hundred to two hundred times its taxable value, and further purchases have now become practically impossible.

In the light of these facts, the question arises: Shall the commission be dissolved? To dissolve the commission, the author argues, would cause such a decline in land values as to bring about a crisis which would affect the entire empire; and, furthermore, the German settlers, if left to themselves, would soon be engulfed, and the Poles would be more stiff-necked than ever. But if the commission is to continue its work, some plan must be devised to enable it to acquire land at reasonable prices. To this end, three propositions have been made: (1) To give the commission a prior right of purchase in the case of all lands going over into Polish hands. (2) To give the commission a veto right, by virtue of which it would have authority to protest against the sale of German lands to Poles and to acquire them itself at their taxable value. (3) To give the commission the right of dispossession. The first proposition the author rejects on the ground that the prices demanded would be prohibitive. The second he regards as more feasible, but he holds that the law would be evaded. The third and most stringent proposition—which the government is now urging—he condemns in no uncertain terms, pointing out that to give the commission such power, even though it would be used in extreme cases only, would mean a tremendous encroachment on private property and existing rights. Although he rejects all these propositions and has none to offer in their place, he insists that the settlement commission must be retained. Apparently the Prussian government is in the position of the man who has hold of the bull's tail and is afraid to let go.

The book is a scholarly piece of work and contains much of interest to people in all lands; but it should be of especial value to those countries engaged, from whatever motives, in building up empirically a rural population.

JESSE E. POPE.

NEW YORK CITY.

*The Business of Life Insurance.* By M. M. DAWSON.  
New York, A. S. Barnes and Company, 1905.—404 pp.

During the last ten years, a number of books have been published dealing with the subject of life insurance. Each one of these may have filled a particular want, and all have undoubtedly been useful. None of them, however, has proved satisfactory as a text-book, at least for college use, for which there has been an urgent demand. The larger number of them have dealt almost exclusively with the mathematics of life insurance. While this phase of the subject will always be of vital importance in any course of instruction in life insurance, and while some universities may find it useful to give instruction in actuarial science, the most valuable general course on insurance that can be given is one which deals with the economic and managerial aspects of this important business. For such a course none of the older books treating of life insurance is available.

The plan of Mr. Dawson's book is ideal for use as a text in such a course as has been described. Less than sixty pages out of four hundred are devoted to the mathematics of the subject, and in these all the computations are expressed in simple arithmetic, as they well may be for the average student. The rest of the book is devoted to a discussion of what may be called the problems of the business. Insurance mathematics has been so well developed that little remains to be done along that line, but how to secure proper management of the large companies and proper control of their great assets is a problem in which the public is vitally interested. Mr. Dawson has realized the importance of this side of his subject and devotes most of his space to a discussion of the methods of controlling mutual, stock and mixed companies, to agency systems, to the questions of expense and new business, to rebating and kindred evils, to investments and to the very interesting question of state supervision.

Notwithstanding the excellent plan of Mr. Dawson's treatise and the good judgment which he shows in the emphasis placed upon the various topics discussed, his book is not fitted for the readers for whom he claims to have written it. Certain it is that a brief experience with it shows its unfitness as a college text-book. The reason for this is not far to seek. Mr. Dawson has assumed too much knowledge on the part of his readers. The treatment is altogether too brief. To one who is familiar with the subject of insurance, the rapid survey and the absence of much explanation are pleasing features of the book, but for the uninitiated this method is bewildering. Technical terms are

introduced without defining them, and there is an almost utter lack of illustration; and consequently a subject that can be made plain is made to seem unnecessarily complicated.

While the book cannot reach those for whom it was intended, it is of value to those who are more or less familiar with the life insurance business. The treatment is eminently fair, the conclusions reached are generally sound, and many suggestions are made which are original and would be useful if adopted. While Mr. Dawson's book cannot succeed as a text, there is good reason for believing that the book which does succeed will follow his closely as a model.

LESTER W. ZARTMAN.

YALE UNIVERSITY.

*Municipal and Private Operation of Public Utilities.* Report to the National Civic Federation Commission on Public Ownership and Operation. New York, 1907. Part I: General Conclusions and Reports. Part II, Volume I: Reports of Experts, United States; Volume II: Reports of Experts, United Kingdom.—489; xvi, 1230; xvi, 768 pp.

In 1905 a commission of one hundred and fifty members was formed under the auspices of the National Civic Federation to make a thorough and, if possible, impartial investigation of the subject of municipal ownership. From this body a sub-committee of investigation of twenty-one was selected, which had active charge of the inquiry, and, in order "to insure the greatest possible degree of impartiality," friends, opponents and neutrals were chosen in about equal proportions. The industries selected for investigation included all of those commonly known as public utilities except telephone service, including gas, electric lighting and power, water companies and street railways. The scope of the inquiry was carefully defined to embrace an investigation of the franchises of private companies, public supervision by governmental authorities, a history of municipal ownership, the effect of public and private management upon political conditions, the conditions of labor, the character, price and cost of service, economy of management, improvement in service and methods, and financial results.

On the ground that political and other conditions in the United Kingdom were more nearly comparable to similar conditions in the United States than were those in other European countries, the investigation abroad was limited to Great Britain and Ireland. Thirteen experts for the United States and eleven for Great Britain were chosen to carry out the work; and here again, in the interests of fairness to

each side, these experts were nominated by both the "pros" and the "antis" to work side by side in the preparation of joint reports.

The committee of investigation and the experts confined themselves to the study of a few plants, selecting for comparison those which as far as possible had common features. For example, the public gas undertakings of Wheeling, West Virginia, and Richmond, Virginia, were compared with the private works in Atlanta, Norfolk and Philadelphia; the public water works of Cleveland, Chicago and Syracuse with private companies in New Haven, Indianapolis and Utica.

It is difficult to make an estimate of the value of this investigation as represented by these volumes, either as to the results or the method of the inquiry. Some investigations are justified even though the results are inconclusive, if they aid in developing better methods of inquiry. On both these points the results are somewhat disappointing. Beyond the expression of certain general conclusions, the plan of making a joint committee report apparently broke down. For example, in the preparation on the chapter on "Municipal Operation *vs.* Private Operation of Municipal Monopolies" in Part I, Volume I, Messrs. Bemis, Parsons, W. Clark and Edgar were appointed a committee of four. The work of this committee was interrupted by the illness of two of the members, necessitating the calling in of substitutes, and, in the final plan adopted, the committee divided into two parts: Messrs. Parsons, Bemis and Maltbie writing successive portions of the chapter, *vis.*, pages 113-302, and Messrs. W. Clark and Edgar jointly writing pages 303-443. The two reports differ as to fact and interpretation, and the reader is unable to judge how far an effort was made by either side to sift and analyze the statements of the other. Each report is marred by familiar generalizations, which reflect long-established opinions of the authors and have no close relation to the immediate inquiry.

This investigation has not brought the experts much nearer together; and if the immediate writers are not progressing toward unanimity, it is difficult to see how the readers of the report can be brought into closer harmony. It must not, however, be understood that there is lack of fact or detail; there is an abundance, for the most part well arranged. But on the vital points of quality of service, political graft and labor conditions, there are as many opinions as there are experts. For example, in regard to the political influence of municipalization, Messrs. Clark and Edgar record that certain officials in England believe that it is necessary to disfranchise all municipal employees (page 308); Prof. Commons says that such a proposition "is no longer seriously considered" (page 97); Messrs. Bemis and Parsons declare that there

has been "no use of political power to secure unreasonable advantages in hours and wages" (page 301); and finally, Mr. Sullivan quotes officials who favor disfranchisement (page 71). A question of this sort ought to have been thoroughly threshed out and the contradictory statements subjected to severe criticism. It is here that a joint committee of experts could be of great service.

Part II contains the more valuable reports of the experts on special undertakings. The operation of water works, gas works and electric supply are analyzed under four separate headings: general history and legislation; labor and politics; engineering matters; and finance and accounting. Here there is a mass of information which ought to be interesting to specialists, but it still remains to be digested. As an offset for these defects, the volumes are supplied with very minute indexes, which will enable a student to secure information on almost any point involved in the discussion of municipal operation.

DAVIS R. DEWEY.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY.

*Efficient Democracy.* By WILLIAM H. ALLEN. New York, Dodd, Mead and Company, 1907.—xii, 346 pp.

Mr. Allen has written a timely book out of a rich fund of personal experience. Its form and the invaluable lists of questions it contains may, unfortunately, limit its readers to expert social workers. These may read his admonitions, but they cannot accomplish much unless a wider public can be enlightened on the main thesis of the book. The most intelligent political and social servants have for some time known that we were acquiring honesty in philanthropy and politics, sometimes by herculean efforts, without securing efficiency. The illogical reaction from this situation has been the choice of the capable but dishonest. Mr. Allen's book should leave no doubt in the mind of any unprejudiced reader of the inadequacy of "goodness" as a social qualification. In all probability any one who takes the trouble to read the impressive array of facts, the elaborate series of proposed investigations and the suggestive ends to be attained will not misinterpret the meaning of efficiency. But those who might read such a popular article as Mr. Allen could write, and are satisfied with reviews of the book, could get justification for one of the most pernicious tendencies of the day.

In the name of "efficiency" it is now possible to beguile the solid business men and a majority of the voters of a city to elect such a ring politician as the present mayor of Chicago or of Milwaukee. Thoughtful men of affairs stand in rapt admiration of the expedition and



economy temporarily exhibited in the Chicago city hall, while the birthright of the people is sold behind their backs. The illegal deposition of members of the school board and the passage of a pernicious telephone ordinance are only two out of many instances of gross misrepresentation of the people perpetrated in the name of "efficiency." The merchants of Market street, Philadelphia, connived with the street railway company, abetted by the newspapers, to get a temporary solution of the transportation problem for their own advantage, to the permanent detriment of the city, in the name of "efficiency."

Mr. Allen has written a hand-book invaluable for the guidance of all who administer public enterprises. It should be part of the equipment of every public official and charity officer. The use of his suggestions will revolutionize administrative methods. But he should supplement it with a book or article showing with equal skill, as he can, the necessity of having a democratic goal for all our social endeavors, in order that the sacrifice of efficiency to goodness may not yield to the sacrifice of goodness for efficiency.

CHARLES ZUEBLIN.

UNIVERSITY OF CHICAGO.

*The American Constitution.* By FREDERIC JESUP STIMSON.  
New York, Charles Scribner's Sons, 1908.—259 pp.

The Teutonic theory of politics, which is really nothing but English middle-class radicalism in historical and juristic habiliments, has now received at the hands of Professor Stimson a new application in a treatise on American constitutional limitations, viewed especially in their economic bearings. As a critique of contemporary government and administrative policies by a lawyer of distinction in many fields of legal research and practice, the volume is not without value; but since the whole argument rests on a particular interpretation of history, it is the philosophy, not the conclusions, which principally engage the interest of the student. This philosophy is a distinctly English product, though Germany has made contributions to it. During the long struggle for democratic government in England the radicals evolved the notion that the ideal political system which they sought was but a return to precedents—and to the English mind, with its high contempt for abstract political reasoning, precedents are very precious—a return to practices of Anglo-Saxon times, with modifications in detail but not in principle. The history of this notion, which deserves to be written, is a long one, extending back at least to the early part of the seventeenth century; but it found its heavy documentation at the hands of

Palgrave and Stubbs and its vehement popularization in the labors of Freeman, who, by the way, was more than once a radical candidate for Parliament. With remarkable and, one might say, ponderous scholarship and unquestioned ingenuity, the institutions implied in the doctrine of the Rights of Man were given a historical reality in the crude tribal-feudal arrangements of the Anglo-Saxon period. Beyond the "red thread of the Norman conquest" were found representative government, popular local administration and stalwart individualism of the Spencerian type. Thus history was used with scientific zeal to serve the instant need of politics.

Professor Stimson has accepted this system, at its own valuation, as the philosophic basis for a study of the American constitutional system; and thus it happens that we find the sugar trust and Magna Carta on the same page, and Rooseveltian centralization in close juxtaposition with the shire-moot. In his opening pages, the author commits himself unreservedly to the law and gospel of the Anglo-Saxon school: "Our own Constitution embodies and improves upon the English Constitution, and the English Constitution registers the totality—the aggregate—of those great principles which in eight hundred and forty years of struggle the Saxon peoples have won back again from Norman kings (page 3).

Since this is his thesis, it is worth while to examine carefully the precise validity of the concrete facts marshaled in support of it. When this test is applied, so many positive errors and misinterpretations are revealed that a volume almost as large as the author's would be required to point out mistakes of fact. A few selected at random will indicate the character of the others. On page 8, we are told that "almost down to the Conquest, the whole body of Anglo-Saxon people made their law: the Witenagemot or, as the Normans called it, the Great Council of the Realm. In theory every freeman could go and was supposed to go." Now for the facts. It is an error to confound the whole body of the people with the freemen (McKechnie, *Magna Carta*); there is no reason for believing that there were the slightest vestiges of anything "popular" about the Witan (Chadwick, *Studies in Anglo-Saxon Institutions*); and the statement that every freeman theoretically could attend is without substantiation, resting on the bare assertions of Palgrave and Freeman. Professor Stimson states (page 9) that the invention of representative government "was first used in the very assembly which drew up Magna Carta"; but no stretch of the imagination could make the baronial army at Runnymede representative in any reasonable sense of the word. It is contended that "English law, American law, is in theory the established custom of a free

people. All other law in the world is the order of a sovereign to a subject. Under Norman kings, it is true, writs were brought in the name of the king, . . . but this was only their formula" (page 27). As a matter of fact, usage assumed as large a place in continental mediæval law as in English law; a decree of Henry II was as good law as one of Philip the Fair in France; the great writs, now the safeguard of individual liberties, were of purely royal origin. The English people did not sweep away "all vestige of the Norman attempt to foist European ideas of law and government" upon them, for some of the most celebrated English free institutions, including jury trial, came from Franco-Norman administrative practices (Brunner). No writ "corresponding to *habeas corpus*" is mentioned in Magna Carta, as is claimed on page 43 (*cf.* McKechnie, *Magna Carta*, p. 156). It is a fantastic and wholly unwarranted misuse of mediæval terminology to say that clause 35 in Henry III's re-issue of the Charter—"No freeman shall be deprived of his freehold or his liberties or of his free customs"—meant the "right to trade or labor, the right to earn one's living, and the right to be protected both from State hindrance and from monopolies" (page 57). It will be astounding to any one who has glanced at the history of English guilds to discover that the English constitution forbade them to do "anything that was in restraint of trade" (page 59). It would be difficult for Professor Stimson to find a charter of Henry II laying down the express principle that all Englishmen were free and to be treated equally before the law (page 79). On page 88 we find accepted the long-exploded notion that jury trial is "separately and expressly mentioned in Magna Carta." Equally erroneous is the idea that the Charter forbade "taxation without representation of the people" (page 99). Certainly it has not always been English doctrine that the sovereign body was the legislature "and as such superior to the executive, the king" (page 133); our author, if he goes no further back, would do well to re-read his Blackstone on this point. Professor Stimson cannot be aware of the anarchic character of his jurisprudence when he says (page 165) "The English king may still be deposed by Parliament and, if they deem wise, put to death." Undoubtedly this might be done; but it would be done under the same right by which the president of the United States might be deposed and executed by the Senate, should it be seized by revolutionary fervor; and surely this is not a part of Professor Stimson's system of liberty.

It is not only in fundamentals that our author is at fault, for the number of his minor errors reveals the fact that historical accuracy in

details is not his strong point. He has Protector Somerset put down Jack Cade's rebellion in 1549, some hundred years after Jack had been disposed of. Henry III—who, by the way, was a son of King John—was not living “one hundred and thirty-eight years after John's Charter” (page 258); and it is a new view of Henry III to make him “a popular king, a great jurist, and a radical maker of laws” (page 258). Professor Stimson's acquaintance with the doctrines of political economy partakes of the nature of his grasp of English constitutional law, and the success with which he has applied the philosophic method to the solution of our modern problems of government can well be imagined.

CHARLES A. BEARD.

*I Trattati internazionali nel diritto costituzionale.* Volume I.

By DONATO DONATI. Turin, Unione Tipografico-Editrice Torinese, 1906.—xxvi, 610 pp.

To the discussion of international treaties in relation to constitutional law the author proposes to devote two volumes. The first deals only with the problems that arise in the negotiation of treaties down to the moment at which they become effective. The second will cover the enforcement of treaties and the rights growing out of them. The volume under review contains an introduction and three long chapters. The introduction deals with general topics, such as the concept of personality as applied to states, the consideration of treaties as a species of contract and the delimitation of the respective spheres of international and constitutional law. The first chapter points out what is properly the subject matter of treaties and discusses the capacity of variously organized states to enter into them; the second deals with the negotiation and execution of treaties; the third, with their effects.

Like the majority of jurists of the modern Italian school, the author is much influenced, both in form and substance, by German authorities. Particularly frequent reference is made to the writings of Jellinek and G. Meyer. It is not surprising, therefore, to find the book rich in philosophic discussion of basic theory, but somewhat lacking in practical example, even in respect of the precedents furnished by Italian governmental practice. The writers of this school are well fitted for laboratory work, but they too often neglect the field work.

In the section dealing with problems of negotiation (pages 89–243), the author distinguishes the question of capacity, which is determined by international law, from that of competence, which is determined by the constitutional law of each nation. Much scholarly discussion

(pages 316 *et seq.*) is addressed to the proposition that treaties do not create rules of municipal law. Although the phrase contained in the constitution of the United States, that treaties shall be deemed "the supreme law of the land," would seem to have made them so with us at least, this result attaches by virtue of the constitution and not of the treaties *per se*. Treaties contemplate solely international rights and obligations and, as the quotation from Laband shows (page 317, note 1), have for their object state action alone.

In the final section (pages 534 *et seq.*) it is maintained that restrictive constitutional clauses relating to parliamentary approval do not of themselves avoid the binding effect of treaties, unless the will of the state is expressly declared to be withheld or ratification is made a condition. In this the author's theory seems to be in line with Vattel and Grotius, and, in later times, Bluntschli and David Dudley Field (*Code of International Law*, § 192). It is opposed, however, to the doctrine of Wheaton and Calvo, and certainly to the weight of precedent in American practice (Moore, *Digest of International Law*, V, 184 *et seq.*).

The impossibility of executing a treaty once regularly passed, by reason of constitutional restrictions upon the state organs upon which its execution depends, is held insufficient to impair its binding character (page 589 *et seq.*). Though the precedent is not cited, this was precisely the attitude taken by Italy, through Marquis Rudini, at the time of the New Orleans riots; and we have recently had another instance of the live character of the doctrine in our diplomatic relations with Japan.

The work throughout maintains a high standard of scholarship, but it deals with the theory rather than the practice of treaty-making.

ARTHUR K. KUHN.

NEW YORK CITY.

*International Law. A Treatise.* By L. OPPENHEIM. London, Longmans, Green and Company, 1905.—2 volumes: xxxvi, 610; xxxiv, 595 pp.

Dr. Oppenheim is a teacher of international law. He was formerly connected with the University of Basle and is at present in the University of London. His purpose in writing has been to prepare "an elementary book" for the use of students. In two volumes he has undertaken to give "a complete survey of the subject." In organization and in other respects the work is similar to that of Bonfilis: the

chapters are subdivided into topics which vary in length from two to six pages; at the head of each topic is given a list of references to the leading writers of the different countries on international law. The work is written throughout in a very didactic style and "is intended," as the author states in his preface, "to present international law as it is, and not as it ought to be." In connection with questions on which the Institute of International Law has proposed rules, the rules are usually set forth. Perhaps the most commendable features of the work are the copious references to treaty stipulations and the fair and impartial judgment with which Dr. Oppenheim, at all times, estimates the conduct of the various states. "I have tried to write," he says, "in a truly international spirit, neither taking any one nation's part nor denouncing any other." In this important particular he has succeeded.

Dr. Oppenheim has little sympathy with the natural-law school of writers. He states that "positivism has gained slowly and gradually the upper hand, until at the end it may be said to be victorious." One would, therefore, expect to find his work a storehouse of precedents, but this is far from true. He refers to few actual cases. In the first volume he lists fifty-four cases and discusses some of them; in the second volume his list is longer, but most of these cases are merely cited in foot-notes, without analysis, to substantiate some very general propositions advanced in the text. Occasionally, when Dr. Oppenheim does undertake to give the facts of a case, he states them incorrectly; in the Koszta case, for example, he omits to mention that Koszta had been banished by Austria, that he had taken the first steps to naturalization under the laws of the United States by formally declaring his intention to become a citizen, that he had received a *tezkereh* from the proper United States officers in Turkey and was thereby entitled to the protection of the United States while within the dominions of Turkey, and, finally, that the right of the United States to protect him under the special circumstances in which he found himself was based on his possession of the *tezkereh* and not, as Dr. Oppenheim states, "because he had taken his domicile on her territory with the intention to become there naturalized in due time." The case of Soulé is noted by Dr. Oppenheim as follows: "In 1854, the French government did not allow the United States envoy, Soulié [*sic*], who had landed at Calais on his way to Madrid, to stop in France, because he was a French refugee naturalized in the United States." Mr. Soulé was stopped at Calais, according to the explanation made by the French minister of foreign affairs, not because the French government wished

to prevent his "simple passage" through France to his post, but because "the sojourn of a foreigner whose antecedents had awakened the attention of the authorities" made it "necessary to consult him as to his intentions"; and this was prevented by Mr. Soulé himself, who, as soon as he was stopped, left Calais and returned to his post by way of England and Portugal.

Dr. Oppenheim obviously regards himself as a positivist, and has doubtless attempted to set forth the actual practice of states; but his method is very different from that of Hall and Westlake, who carefully collect and analyze the best evidence of the actual practice and permit their readers to observe the logical processes through which they reach their statements of the existing law. Dr. Oppenheim operates largely with principles of policy, which are necessarily somewhat indefinite, and, by means of distinctions which are certainly subjective and which often seem *doctrinaire*, he deduces jural concepts which are distinctly his own and which he sets forth in novel terms. Thus, in a chapter entitled "Responsibility of States" (I, 198 *et seq.*), Dr. Oppenheim asserts that there are two different kinds of responsibility: "original," or that which is "borne by a state for its own—that is, its government's—actions, and for such actions of the lower organs or of private individuals as are performed at the government's command or with its authorization"; and "vicarious," or that which is borne by states "for certain acts other than their own—namely, certain unauthorized injurious acts of their organs, of their subjects, and even of such foreigners as are for the time living within their territory." A neglect by a state, he says, of its "original" responsibility constitutes an "international delinquency" and "requires, apart from their especial consequences, a formal expiatory act, such as an apology at least, by the delinquent state to repair the wrong done."

On the other hand, the vicarious responsibility which a state bears requires chiefly compulsion to make those officials or other individuals who have committed internationally injurious acts repair as far as possible the wrongs done, and punishment, if necessary, of the wrong-doers. In case a state complies with these requirements, no blame falls upon it on account of such injurious acts. But, of course, in case the state refuses to comply with these requirements, it commits thereby an international delinquency, and its hitherto vicarious responsibility turns *ipso facto* into original responsibility.

Dr. Oppenheim then discusses in general terms for several pages the application of his novel distinction. He states that the action of a legislative body, however illegal it may be from the international point

of view and however injurious it may be to a foreign state, "can never constitute an international delinquency," but that "all states must bear vicarious responsibility for such attitudes of their parliaments." He takes the position that "individuals who enter foreign territories submit themselves to the law of the land, and their home state has no right to request that they should be otherwise treated than as the law of the land authorizes a state to treat its own subjects." And he goes on to say that, "since the law of nations does not prevent a state from expelling foreigners, the home state of an expelled foreigner cannot request the expelling state to pay damages for losses sustained by the expelled through his having to leave the country." He says "that individuals who enter foreign territory must take the risk of an outbreak of an insurrection or riot just as the risk of the outbreak of other calamities." And, unless the municipal law of a state provides a remedy for injuries caused by insurrection or riot, "the state itself never has by international law a duty to pay such damages." Throughout this discussion Dr. Oppenheim refers us to no precedents, although a collection of cases, holding contrary to the opinions expressed by him, is to be found in Moore's *International Arbitrations*, a work which Dr. Oppenheim does not cite and apparently has never consulted.

Dr. Oppenheim's failure to search out the precedents has caused him at times to misstate the existing practice of nations. So, in speaking (I, 443) of the claim of asylum for persons who have sought refuge in diplomatic domiciles, he states that "during the nineteenth century all remains of it vanished." Again, in discussing the basic principles of neutral duty, he emphasizes impartiality, the doctrine of Grotius and Bynkershoek, rather than abstention, the only doctrine deducible from modern precedents. A few more errors and omissions may be briefly noted. The author states (I, 425) that "a distinction is made between a *chargé d'affaires* and a *chargé des affaires*"; that "the latter is a member of a legation whom the head of the legation delegates for the purpose of taking his place during his absence on leave"; and that "such a *chargé des affaires* ranks below the *chargé d'affaires*." He evidently means to distinguish between *chargé d'affaires ad hoc* and the *chargé d'affaires per interim*. The greater Republic of Central America is spoken of (I, 129, 156) as if still in existence; it was dissolved in 1898. A slight error of Hall is perpetuated in the statement (I, 424) that the classification of diplomatic representatives fixed at Vienna and Aix-la-Chapelle has been accepted by "all" states. It should be noted that Turkey has a system of its own, which differs from that of the other states in classing together ministers resident and



ministers plenipotentiary. In treating of the practice governing the recognition of new states, Dr. Oppenheim does not undertake to mention or discuss the recognition of Panama. Notwithstanding the failure of Great Britain on the absorption of the Transvaal and that of Cuba on its secession from Spain to assume the financial obligations attached to their respective previous persons, Dr. Oppenheim says there is no doubt about the existence of "a real rule of international law, based on custom," which requires the absorbing state and the new state to take over such debts. He omits to mention the case of Cuba.

G. W. SCOTT.

WASHINGTON, D. C.

*Chile : Its History and Development, Natural Features, Products, Commerce, and Present Conditions.* By G. F. SCOTT ELLIOT. New York, Charles Scribner's Sons, 1907.—xxviii, 357 pp.

*The Andes and the Amazon : Life and Travel in Peru.* By C. REGINALD ENOCK. New York, Charles Scribner's Sons, 1907.—xvi, 379 pp.

Within recent years the increasing attention drawn to the countries of South America has created a demand for fuller and more exact information. So far as this attention carries with it a corresponding degree of interest, the sort of literature required is that which deals with actual conditions. The general reader cares as little for the history of the South American states as for the superficial impressions of travelers bent merely on the quest of the picturesque. He wishes to know something about the geographical, economic, political and social situation and prospects in general, and he also wishes information regarding all the varied elements of social life which go to make up civilization. Such information is especially desirable for two reasons: first, because it would serve to dispel the common notion that the South American republics are scarcely more than half civilized; and secondly, because at present it is either not obtainable at all or to be obtained only in the shape of meagre and often erroneous statistics.

Neither of the works under review supplies this sort of information. Though superior to any other books, in English at least, which attempt to deal with Chile and Peru, they do not give a clear or well-rounded picture of the conditions prevailing in these countries. As the initial volumes in a "South American Series," it might reasonably be expected that they would strive to satisfy the present demand, and also that they would show a certain similarity in treatment. Unfortunately,

however, the marked difference between them in form, substance and style makes the reader lament the absence of a general editor, while he observes with regret the tendency displayed by both of them to follow conventional, though diverse, lines in the presentation of their subject matter.

Were the character of the series to be estimated by Mr. Elliot's work on Chile, the wisdom of the publishers in launching it upon the market might be justly doubted. It is neither a history nor yet an elaboration of traveler's notes, but rather a disjointed combination of the two. Considerably more than three-fifths of the book is devoted to a history of Chile. It begins with the "physical history," which means chiefly a description of the natural features of the country; proceeds to the "prehistoric history," which includes an account of primitive races as well as the invasion of Almagro, who was hardly a prehistoric personage; and then allows marching, fighting and shooting to surge and rattle through some two hundred pages, all the way from Valdivia to Balmaceda, with practically no interpretation of the events narrated beyond that which is furnished by their chronological sequence. The remainder of the text is given over to a somewhat rambling sketch of social, economic and political conditions in the Chile of today, ending with a leap backward to the time of Magellan and another forward to the prospects of the republic. An appendix dealing with the products and shipping of the country, an uncritical list of books and a good map complete the work.

So far as the conditions and prospects of Chile are concerned, the reviewer ventures to dissent from the opinion expressed by Major Hume in the introduction, namely, that the author is "fully qualified to speak of them from personal knowledge." Whatever be the abilities of Mr. Elliot to prophesy, and whatever may have been the length of his sojourn in Chile, the bulk of his information about the present circumstances of that state appears to be derived from the volume by "Mr. Robinson Wright" (page xx), usually known as Mrs. Marie Robinson Wright, and from the productions of other writers both unofficial and official. A perusal of Mr. Elliot's book certainly leaves the impression that it is a compilation made at home rather than a digest of data acquired personally on the spot. It is not devoid of interest, and, so far as it goes, it does justice to the Chileans, but it is too deficient in selection, proportion and topical arrangement to be of much value to the public.

Mr. Enock's work is what its subtitle indicates it to be, a collection of traveler's notes. The author is a young English engineer who has

lived long enough in Peru to obtain an extensive acquaintance with the land and its people. Topics such as the several areas of the country, social customs, natural resources, the church, the Inca civilization and ruins, pirates and buccaneers, earthquakes and tidal waves, colonization, commerce and railways, and, finally, South American relations in general, are treated with a power of description that at times is admirable. Like its companion volume, the book has a good map, but it provides no bibliography and contains few references to the literature dealing with Peru.

Although Mr. Enock's book is entertaining and in many respects instructive, it is too desultory to give the reader anything like a complete view of Peruvian conditions. As literature, its value is seriously impaired by an irresistible bent toward fine writing. Striving constantly for effective verbal combinations, the author never loses an opportunity to wax eloquent, or to indulge in the artificially ornate phrase that calls for the use of points both of interrogation and of exclamation. As regards the substance of the book, its authority is impaired by the author's insularity and prejudice. Spain is made absolutely responsible for all the ills which Peru has suffered and is suffering. Censure of Spanish methods is accompanied by laudation of the civilizing effects of British colonization and British commerce. Had the former been applied in time, Peru would have blossomed like the rose; and were the latter now to dominate the economic life of that country, the blossoms would certainly turn to golden fruit. The United States, in the author's opinion, is at present unfit to have a share in the work of development. "Unfortunately," he tells us, "the business and administrative methods of the North Americans are not such as to warrant their yet taking up the position of mentor to any one; . . . and one thing is certain—the closer their association with Great Britain, the sooner will their capacity for righteous administration be developed" (page 364). It is cheering to learn that we have capacity.

WILLIAM R. SHEPHERD.

## RECORD OF POLITICAL EVENTS

[From November 5, 1907, to May 1, 1908]

### I. INTERNATIONAL RELATIONS

**FOREIGN RELATIONS OF THE UNITED STATES.**—The newspaper rumors of impending war with Japan were quieted, both in America and Europe, largely through the efforts of Secretary of State Root. Moreover, the attempt to settle the question of the immigration of Japanese coolies into the United States seems to be approaching a successful conclusion (see last RECORD, pp. 751, 752). The American ambassador, Mr. O'Brien, made representations to the Japanese minister of foreign affairs on the subject, and the latter replied that his government was making efforts to stop undesirable emigration to the United States. The Japanese minister was then confronted with evidence that the immigration of coolies was on the increase. Japan's answer to this contention was made on December 31; it accepted some of the American suggestions and outlined the plans by which emigration of laborers might be restricted, but maintained that the statistics of Japanese immigration presented by Mr. O'Brien were incorrect. The American memorandum of January 25 suggested that the difference between the American and the Japanese statistics might be due to frauds practiced upon the Japanese government. In a paper handed to Mr. O'Brien on February 18 Japan outlined plans for a restriction of emigration intended to settle all existing differences between the two countries. Viscount Aoki, the Japanese ambassador to the United States, was recalled in January, and his place was taken by Baron Takahira, who had formerly represented his country at Washington.—Mr. F. D. Fisher, the American consul in Manchuria, refused to recognize the municipal government established by Russia at Harbin and reported to the American government that Russia and Japan were violating the open-door policy in China. Secretary Root informed the Russian government in April that the administration would support Mr. Fisher's action (see ASIATIC INTERNATIONAL RELATIONS, *infra*).—Congress voted to reduce by about half the indemnity of \$24,440,778 imposed upon China on account of the Boxer disturbances of 1900. Wu Ting Fang, formerly the Chinese representative at Washington, was again appointed Chinese minister to the United States.—Two treaties were concluded in April between Great Britain and the United States, one providing for a commission to settle the disputed boundary questions between the United States and Canada, and the other to regulate fishing in the great lakes and contiguous streams. In April the Senate ratified an arbitration convention with Great Britain.—A reciprocity agreement with France (see last RECORD, p. 752) was signed at Washington on Janu-

ary 27 and went into effect on February 1. An arbitration treaty with France was ratified on February 19, applicable to any issues that may arise between the two countries.—On November 8 it was announced that Dr. David Jayne Hill would succeed Charlemagne Tower as ambassador to **Germany**. Although the appointment was apparently made with the approval of the German government, it was reported in the latter part of March that Dr. Hill was not entirely acceptable to the emperor. This report and the further allegation that the objection was based upon Mr. Hill's want of means to meet the social requirements of the position gave rise to considerable comment in the political press. Subsequently it was officially announced in Berlin that no objections were entertained to Dr. Hill's appointment.—In January **Spain** finally paid to the United States a claim of \$570,000, which grew out of spoiliations of American merchantmen by privateers during the wars between Spain and her colonies in South America. The amount had been determined in 1834 and Spain had paid interest since that date. An arbitration treaty with Spain was ratified by the Senate in April.—The labor disorders in **Cuba** (see last RECORD, p. 753) continued, and many union leaders in Havana were arrested and held for trial. The census of the population was completed and a new electoral law, providing for proportional representation, was prepared in January by the advisory commission appointed by Governor Magoon. President Roosevelt announced that by February 1, 1909, the government of the island would be turned over to Cuban citizens. In April Governor Magoon requested the resignations of several provincial governors and appointed American officers in their place.—In March the Superior Court of **Venezuela** confirmed the judgment imposing a fine of \$5,000,000 on the New York and Bermudez Asphalt Company for aiding in the Matos revolution (see last RECORD, p. 754). Five large claims are still pending between the United States and Venezuela, and all efforts to persuade the latter to arbitrate them have been unsuccessful. On March 31 the correspondence between the two countries on the subject was referred to the Senate, but no action had been taken at the close of this RECORD. Bad feeling was increased by the action of the Venezuelan officials in opening mail-bags intended for the cruiser "Tacoma."

**OTHER AMERICAN INTERNATIONAL RELATIONS.**—The Central American Peace Conference, held at Washington (see last RECORD, p. 753), adjourned on December 20 after a month's deliberation. Eight treaties were signed, the most important provisions being the neutralization of Honduras and the institution of a high court for the five republics. This court will be composed of judges elected by the congresses of the several states and will meet in Honduras. It will hear and determine all questions in dispute between the contracting countries, and it has power in every case to fix the *status quo* to be maintained, pending adjudication. It is to determine its own competency in all cases in which its jurisdiction is disputed. None of the five countries may repudiate the agreement during the next ten

years except as the result of political union between two or more of them. The further resolutions adopted by the conference relate to uniform extradition laws, monetary systems, tariffs, *etc.*, the establishment of better means of transportation and communication, and to other commercial and educational interests. One important article provides that none of the five governments shall recognize heads of other governments not constitutionally elected. After the close of the conference the presidents of the various republics opened negotiations with a view to the adoption of a uniform code of international law.—An attack by a detachment of **Peruvian** troops early in November on a **Brazilian** fort located at Leticia on the Peruvian frontier and the subsequent occupation of the Brazilian town of Tabatinga created strained relations between these countries, which were relieved by Peru's withdrawal and apology.—**Brazil** negotiated treaties for boundary demarcation with **Venezuela** and **Uruguay** in November, and with **Colombia** in January.—**Peru** and **Chile** concluded their first treaties of amity on December 18.—An extradition treaty was signed on December 18 between **Mexico** and the **Netherlands**. The report in January that the king of **Spain** would shortly visit Mexico was received with satisfaction by the press of both countries.—In January **Nicaragua** negotiated treaties of friendship and commerce with **Italy** and **Belgium**, and a special convention with **Great Britain**, whereby the latter recognizes Nicaraguan sovereignty over the Mosquito Reservation and the annulment of the port privileges of San Juan del Norte.—The governing board announced on February 5 that the **Fourth Pan-American Congress** would be held at Buenos Ayres in 1910, the one hundredth anniversary of Argentina's independence.—In consequence of the punitive measures adopted by the government of **Hayti** against revolutionists, warships were sent in March by Great Britain, Germany, France and the United States for the protection of foreigners. General Antenor Firmin, the leader of the recent insurrection, and other refugees at the French and German consulates were subsequently permitted to leave Hayti on a French cruiser for St. Thomas.—Mr. Lemieux, Canadian minister of labor, visited Tokio in November and December, and received assurance that while **Japan** would not consent to any modification of her treaty with **Canada** or enter into any new agreement, she would in future so control **emigration** that there should be no further cause of complaint.

**EUROPEAN INTERNATIONAL RELATIONS.**—At Christiania, on November 2, Russia, Germany, France, Great Britain and Norway agreed to modify the Anglo-French treaty of November 21, 1855, and to guarantee the territorial integrity of **Norway**. Special agreements were concluded in April between Sweden, Russia, Germany, Denmark and the Netherlands for the maintenance of the *status quo* in the **Baltic**.—Emperor William's welcome on the occasion of his visit to England in January seemed to attest the most cordial relations between **Great Britain** and **Germany**, but the discovery in March that the emperor had written a personal letter

to Lord Tweedmouth, of the Admiralty, on the subject of the British navy created somewhat of a sensation, and the emperor's act was treated by part of the British press as an inadmissible attempt to influence British policy.—An arrangement was effected in December between **Great Britain and France** for mutual assistance in the collection of income-taxes.—A new commercial agreement between **Austria-Hungary and Serbia** was signed in March.—Disorders in Macedonia and negotiations of the powers with the Porte for administrative reforms and railway concessions have again brought **the Balkan situation** into prominence. Outrages in Macedonia were reported almost daily, and the protests of the powers to the governments of Bulgaria, Serbia and Greece against abetting the disorders have thus far resulted only in calling forth reciprocal recriminations.—The ambassadors at Constantinople presented to the Porte on December 22 a note demanding the renewal for a period of seven years of the mandates of the foreign officials engaged in carrying out the reforms in Macedonia. The Porte replied early in January that it was prepared to renew the mandates only on condition that the officials should enter the Turkish service. A British proposal for the subordination of all Macedonia functionaries to a governor-general, Christian or Moslem, to be appointed by the sultan with the consent of the powers and to reside at Salonika, although warmly approved by the Balkan states, was elsewhere received with disfavor. An alternative Russian proposal was submitted on April 1 with the endorsement of France, Germany, Austria and Italy.—Negotiations for reforms have been complicated by negotiations for railways. Russia at first opposed the application of Austria-Hungary for a railway through Novi Bazar, connecting Salonika with Vienna, but in March acquiesced on condition that simultaneously with this concession the Porte grant another for a Danubian-Adriatic line *via* Serbia and that Bulgaria be allowed to connect her railways with those of Macedonia. The sultan signed an *irade* in April directing a survey of the Novi-Bazar railway. Negotiations were opened in April between Greece and the Porte for connecting the Piraeus-Larissa railway with the line from Salonika to Monastir. The proposed construction of these various railways created great uneasiness among the Albanians in the vilayet of Kossovo.—The Porte agreed in March to the renewal of the mandates of the foreign officials in Macedonia and confirmed the nomination by the Italian government of General Count di Robilant in succession to the late General De Giorgis as commander of the Macedonian gendarmerie. The refusal of the Turkish government to authorize Italian post-offices in Turkish territory, coupled with the murder of an Italian missionary in Tripoli and the persecution by the Ottoman government of natives who have sold their land to Italians, called forth a protest from the Italian government in April.

**AFRICAN INTERNATIONAL RELATIONS.**—There is little change in the **Moroccan situation** (see last RECORD, pp. 750, 751). Neither of the rival sultans has had sufficient funds to prosecute the war to advantage. The troops of Abd-el-Aziz gained a victory over those of Mulai Hafid near

Mogador on November 15 and late in that month recaptured Mazagan. The population of Fez, however, enraged at the rise in prices caused by the anarchy in the vicinity, rioted on December 22, destroying the urban *octroi* posts and driving out the tax-collectors; and in January the discovery of a secret communication, sent several weeks before by Abd-el-Aziz to their *ulema*, asking whether, in case any Moslem sovereign's power became so weakened that he was unable to reassert his authority, he might call foreign Christian troops to his aid, aroused such resentment that they unanimously proclaimed Mulai Hafid sultan. The example of Fez was followed by the towns of Wazan, Alcazar and others, with the result that by February 1 Mulai Hafid was in possession of the whole interior of Morocco and of one of the coast towns, Saffi, while Abd-el-Aziz held the other coast towns. A defection in the forces of the former occurred in March through the proclamation of Shereef Big Soos as sultan by some of the tribes in the extreme south; and Mulai Hafid's alliance with those tribes in the north which were resisting foreign occupation brought him into conflict with the Europeans. About the middle of March he made peace overtures to the French, and in a letter of April 1 to the legations at Tangier he again urged them to recognize him as sultan, promising to observe all the stipulations of the Algeciras convention.—After protracted negotiations between Raisuli and the British legation, Kaid Sir Harry Maclean was surrendered at Tangier on February 6; the bandit chieftain obtained \$100,000 and the release of fifty-six prisoners, and he and twenty-eight of his relatives became protected British subjects. Maclean, after his captivity of seven months, re-entered the service of Abd-el-Aziz.—In January Abd-el-Aziz released his brother, Mulai Mohammed, from the prison where he had been confined for fourteen years and placed him in command of the army at Rabat.—International Franco-Spanish police were installed in December at Tangier, Tetuan, El-Araish and Rabat, Germany joining France and Spain in contributing to a loan of \$500,000 made by the Bank of Morocco to Abd-el-Aziz for the maintenance of this police. A Spanish force under General Marina occupied Mar Chica, in February, to keep order in the districts contiguous to Spanish territory as provided in the treaty of 1894. General d'Amade, who replaced General Drude in command of the French troops at Casablanca late in December, declared that no troops would leave until the issue between Abd-el-Aziz and Mulai Hafid had been settled and order restored. In January he received the submission of the powerful tribe of the Beni Snassen on the Algerian frontier, and in February he defeated the tribesmen in alliance with Mulai Hafid near Settati.—M. Pichon, foreign minister of France, declared in Parliament on January 27 that France had no idea of conquering Morocco or taking any territory, but intended merely to restore order in the coast districts, to carry into effect the Algeciras convention and to maintain a prudent neutrality between the rival sultans. War-Minister Picquart announced that, up to January 1, there were 99 killed and 311 wounded out of the total 13,000 men then constituting the French expedition in Morocco,



and he estimated the expense to France, up to the same date, at five and a half million francs, exclusive of naval expenditure.—The long-delayed determination of the boundary between **Abyssinia** and British East Africa was reached in January by an agreement embodying the claims of Great Britain. On December 12 a force of 2000 Abyssinians made an incursion into the Italian protectorate, attacking Berbale and blockading Lugh. Emperor Menelek apologized to the Italian government, condemned the leaders of the raid to imprisonment and appointed new chieftains along the Benadir frontier well-disposed to the Italians.

**ASIATIC INTERNATIONAL RELATIONS.**—The **Russo-Japanese** agreements (see last RECORD, p. 751) seem to be encroaching seriously on the sovereignty of **China** in **Manchuria**. The Russian authorities in March asserted absolute and exclusive rights of administration and territorial jurisdiction over Chinese and foreign residents at Harbin and other places within the lands occupied by the Eastern Chinese Railway Company, and Mr. Fisher, the United States consul at Harbin, alone supported the protests of China. The Japanese, likewise against the protests of China, have retained the public buildings at Mukden and the Manchurian coal-mines, and they have occupied the territory of Chien-tao in Kirin province on the ground that, though long held by China, it really belonged to Korea. Japan has taken most of the telegraphs and post-offices in Manchuria and has prohibited China from extending a railway west of the Liau River lest it should compete with the Japanese railway east of that river. The seizure by Chinese customs officers in Portuguese waters off Macao early in March of the Japanese steamer "Tatsu Maru" with a consignment of arms on board provoked bitter feeling in both countries, but an amicable arrangement was reached between the governments whereby China released the steamer at Hong-kong on March 16 and paid Japan damages, and Japan agreed to adopt and enforce strict regulations to prevent traffic in arms and ammunition between Japan and China. The "Tatsu Maru" incident and other disputes between China and Japan have given rise to an extensive boycott of Japanese goods by Chinese merchants.—In March Russia converted her legation at Tokio into an embassy.—A joint **Turko-Persian** delimitation commission was in session at Urumiah throughout February. The Turkish government declared that Fazyl Pasha, its general who was charged with aggressions on Persian territory, had merely been suppressing Kurds and had occupied Suj Bujak in consequence of the requests of the Sunnite inhabitants. Orders were telegraphed to him in February to withdraw immediately to the Turkish side of the frontier.—For the purpose of punishing Kurdish raiders who attacked the Russian garrison at Belesuvar on April 13 **Russian** troops crossed the **Persian** frontier and defeated the Kurds in the mountains of Kara Dag. Persia is preparing an expedition to co-operate with the Russians.—The **Tibetan** envoy in India paid the final instalment of the war indemnity for the campaign of 1904 at the foreign office in Calcutta on January 27.—A new treaty was negotiated in March

between **Great Britain** and **Siam**, by which Siam ceded to Great Britain the states of Kelantan and Tringano, and Great Britain in return modified her extra-territorial rights in Siam proper.

**INTERNATIONAL CONFERENCES.**—The International Sugar Convention, which was held at Brussels from November 18 to December 3, admitted Russia to membership on condition that the amount of sugar which Russia exports from January 1 to September 1, 1908, be limited to a total of 1,100,000 tons, exclusive of the amount exported to northern Persia and Finland, and that Russia export no sugar into Germany and Austria-Hungary.—The second international conference on the African sleeping sickness met in London on March 9 with seven countries represented, but failed to agree on a draft convention.

## II. THE UNITED STATES

**THE ADMINISTRATION.**—A serious **financial crisis**, comparable to that of 1893, occurred in October and November and was followed by an industrial depression which still continues. For the relief of the money market Secretary of the Treasury Cortelyou made deposits of government funds in New York national banks; and on November 17 he announced, with the approval of the president, an issue of \$50,000,000 of two-percent Panama bonds and \$100,000,000 of three-percent treasury notes, both of which could be used as security for national bank currency. The purchase price was to be re-deposited with the banks. Both issues were oversubscribed, but only about \$25,000,000 of the Panama bonds and about \$15,000,000 of the treasury notes were actually allotted, the former at the average price of 103. Secretary Cortelyou was attacked in the Senate by some of the southern Democrats on the ground that he had discriminated in favor of New York in making deposits and had unjustly favored banks as against individual bidders in making allotments of bonds. On January 29, he submitted a report to the Senate, in which he defended his action.—**President Roosevelt** sent a letter on November 19 to three cabinet officers, stating that federal office-holders would not be permitted to continue their activity in favor of his re-nomination. On February 9, in answer to assertions that he was using federal patronage to further the candidacy of Secretary of War Taft for the Republican nomination to the presidency, he made public a letter written by him to William D. Foulke, analyzing recent appointments and declaring that the accusations were false and malicious.—The action of the president in appointing a medical officer to command a naval hospital ship led to a somewhat sensational controversy. The appointment, which was made on the advice of Surgeon-General Rixey, was opposed by Admiral Brownson, chief of the Bureau of Navigation, on the ground that it was both inexpedient and illegal; and, when his remonstrances were disregarded, the admiral sent in his resignation, December 24. The president denounced this action as "disloyal to the interests of the navy, and therefore of the country as a whole."—At the president's invitation, the gover-

nors of the states and territories are to meet him at the White House on May 13, 14 and 15 to discuss the conservation of the natural resources of the country.—Secretary Straus of the Department of Commerce and Labor organized, at Washington, on December 5, "The National Council of Commerce," embracing the leading commercial bodies of the country. Its purpose is to keep the department informed of the needs and desires of the business world, and also to keep business men in touch with the work of the department.—On December 16 the *Atlantic fleet* started on a cruise for the Pacific Ocean, *via* Cape Horn, and on April 14 it reached San Diego, California. It was announced in April that the fleet would visit Japan on the invitation of the Japanese government.—Prosecutions for land frauds were checked for a time, in December, by a decision of Judge Robert E. Lewis of the United States district court at Denver, Colorado. Judge Lewis held that contracts for the transfer of lands after application had been made for them were legally permissible, and that such contracts could not be made criminal offences by the rules of the Land Office, as this office was not a law-making body. An appeal was taken by the government from this decision, and on January 11 it was announced by the Department of Justice that there would be no cessation in the prosecution of land-fraud cases in Colorado and other western states, though it would be necessary to change the procedure in some respects. Representative G. W. Cook of Colorado in an open letter attacked these prosecutions as unfair. J. H. Hall, former United States district attorney, was convicted in February, in Portland, Oregon, of conspiracy to maintain an illegal fence which enclosed 2000 acres of public lands. The trial of a number of persons alleged to have conspired to defraud the government of public lands began in Washington on April 1.—The members of the Committee on Appropriations of the House of Representatives visited the *Panama Canal* in November and reported that conditions in the Canal zone were satisfactory (see last RECORD, p. 755). During the period under review the work of excavation proceeded very rapidly. Chief Engineer G. W. Goethals stated in January before the House Committee on Interstate and Foreign Commerce that the total cost of the canal, originally estimated at \$135,000,000, would approximate \$300,000,000.—The principal appointments made during the six months were: Beekman Winthrop of New York as assistant secretary of the treasury; L. O. Murray as controller of the currency; C. P. Grandfield as first assistant postmaster-general; F. T. Dennett of North Dakota as commissioner of the General Land Office; J. S. Leech of Illinois as public printer; E. S. Fowler as collector of customs at the port of New York; G. W. Wanmaker as appraiser of merchandise at the port of New York; J. F. Tracey of New York as member of the Philippine Commission; David J. Hill as ambassador to Germany.

**THE DEPENDENCIES.**—The legislature of the *Philippines* elected Benito Legarda and Pablo Ocampo as delegates to Washington. The inaugural session of the Assembly closed on February 1. One hundred and

twenty-five bills were introduced, of which five were passed. There were no disorders during the session, and Governor-General Smith expressed his satisfaction with the conduct of the members. The first regular session of the Assembly opened on February 4. It instructed its delegates at Washington to ask Congress to suspend perpetually the Frye Shipping Act. A resolution to instruct the delegates to ask Congress how soon independence would be granted met with general ridicule and was withdrawn.

**CONGRESS.**—The first session of the sixtieth Congress opened on December 2. J. G. Cannon of Illinois, Republican, was re-elected speaker of the House of Representatives and J. S. Williams of Mississippi was again chosen as the leader of the minority.—President Roosevelt in his **annual message** recommended a revision of the currency laws, so as to provide a more elastic currency; a national incorporation act for railroads and further control of inter-state corporations by means of federal charters and the requirement of publicity; an amendment of the anti-trust law, so as to forbid only harmful combinations; income and inheritance taxes; inland waterways and conservation of all the natural resources of the country, especially of the forests; postal savings banks and extension of the parcels post; a better ocean mail service; a bigger army and navy, and an appropriation during the current year for the construction of four new battleships.—The time of Congress was chiefly occupied with the subject of **currency legislation**. Two principal bills were introduced, one by Senator Aldrich in the Senate and one by Representative Fowler in the House. The Aldrich bill provided for an emergency national bank currency, to be secured by state, municipal and railroad bonds, and to be issued with the consent of the controller of the currency and the secretary of the Treasury. The Fowler bill, on the other hand, contemplated a complete reformation of the currency system. It introduced credit notes instead of bond-secured circulation; divided the country into redemption districts, each managed by a board of managers elected by the banks; and proposed to secure notes and deposits by a government guaranty fund, for the maintenance of which a tax on circulation was to be imposed. There was much opposition to the Aldrich bill, particularly from the West. Senator La Follette of Wisconsin made a sensational speech against it, in which he alleged that the panic had been brought on artificially by a few financial magnates for the purpose of discrediting the policies of the administration. After the bill had been amended by eliminating the railroad-bond feature, by requiring that four-fifths of the reserves of a bank be kept in its vaults, by prohibiting the investment of the funds of any national bank in securities of any corporation whose officers or directors were at the same time officers or directors of the bank, and in other respects, it was passed by the Senate, March 27, by a vote of 42 to 16. The House Committee on Banking and Currency tabled the Aldrich bill and reported the Fowler bill. Representative Vreeland introduced a substitute for the Aldrich bill, adding commercial paper to the securities upon which an emergency issue of bank notes might

be based. Mr. Fowler introduced a resolution providing for a currency commission.—In view of the impending presidential election, it was the intention of the Republican leaders in Congress to pass no important legislation with the exception of a currency measure. In a **second message**, on January 31, President Roosevelt strongly urged action upon several matters. He recommended a new employers' liability law, an act to restrain the "abuse of injunctions," a new law prohibiting the discharge of an employee because of membership in a union, an increase of the powers of the Interstate Commerce Commission, an amendment to the anti-trust act, including permission for railroads to form traffic associations, and the abolition of "stock gambling." A bill embodying some of these recommendations was introduced by Representative Hepburn of Iowa on March 23. It provides for federal registration of corporations, those registering to be immune from prosecution for restraint of trade so long as the restraint is adjudged by the government not to be unreasonable, and it furthermore specifically recognizes the right of labor to organize, to make collective bargains and to strike. In another message, on March 25, President Roosevelt advised the passage of such a bill, and also of a child-labor law, an employers' liability law and a measure regulating the use of injunctions, and he suggested the creation of a tariff commission. In a further message, on April 27, he reiterated and emphasized some of these recommendations.—The only important law passed at the close of this RECORD is an **employers' liability act**, to take the place of the act found unconstitutional by the Supreme Court (see FEDERAL JUDICIARY). Bills providing for the appointment of a **tariff commission** to revise the tariff have been introduced Senator Beveridge of Indiana and Senator La Follette of Wisconsin. In response to the agitation for the reduction of the tariff on wood-pulp, the House authorized an investigation of the paper trust. Representative Lilley of Connecticut, on February 20, introduced a resolution providing for the appointment of a committee to investigate the lobbying methods of the Electric Boat Company of New Jersey before the House Committee on **Naval Affairs**. He charged that the company had used corrupt and unfair methods in getting its submarine boats accepted by the committee. A special committee headed by Mr. Boutell of Illinois was appointed by the speaker to investigate these facts. The House Committee on Naval Affairs having recommended appropriations for two new battleships only, President Roosevelt sent a message to Congress, on April 14, renewing his plea for four such ships; but the House sustained its committee. The Senate also voted down a four-battleship amendment, but put itself on record as favoring the construction of two battleships annually. Early in April the President sent a message to Congress calling its attention to the necessity of checking the spread of anarchism.

**FEDERAL JUDICIARY.**—Four decisions affecting labor have been rendered, and three of them have had important political bearings. In *Loewe v. Lawlor*, the Supreme Court held that when a labor organization,

by the use of labels and notices in labor papers and by other means, boycotts a manufacturing concern doing a large interstate business, the said organization becomes a combination in restraint of trade and is liable to the penalties of the anti-trust law. In *Adair v. the United States*, it was held that the provision of the act of June, 1898, making it a criminal offense against the United States for an officer or agent of an interstate carrier, duly authorized in the premises, to discharge an employee because of membership in a trade union, violates personal and property rights guaranteed by the constitution, and that such a provision does not come within the power of Congress to regulate interstate commerce. In two cases decided on January 6, 1908, the court, by a vote of five to four, held that the Employers' Liability Act passed by Congress transgressed the constitutional limits imposed upon the federal regulation of interstate commerce (see *RECORD* of June, 1907, p. 370). In *Muller v. Oregon*, a state statute limiting the working hours of women in laundries to ten per day was upheld.—In *Darnell v. Memphis*, a Tennessee statute, imposing a tax on property within the state which is the produce of the soil of another state, and at the same time exempting like property produced in Tennessee, was declared unconstitutional as interfering with interstate commerce.—In *Lee v. New Jersey*, it was declared that a judgment of a state court which, in enforcing a state statute, does not deprive the complaining party of rights will not be reversed because the enforcement of such a statute against another class of parties may be unconstitutional.—According to *Hunter v. Pittsburg* it is not a taking of property without due process when, under a state statute, a smaller municipality is annexed to a larger city in such a way that an additional burden of taxation may be imposed on the citizens of the former by a majority vote of the combined municipalities.

**NATIONAL POLITICS.**—The national committees of the two great parties met at Washington in December. Chicago was selected as the place for the meeting of the Republican national convention and June 16 was fixed as the date. The Democratic national convention was summoned to meet in Denver on July 7. President Roosevelt reiterated the statement that he would not accept a third term. Secretary of War William H. Taft, who is supported by the administration, is the most prominent aspirant for the Republican nomination. Other prominent candidates are Governor C. E. Hughes of New York, Speaker of the House J. G. Cannon of Illinois, Senator Knox of Pennsylvania, Senator La Follette of Wisconsin and Vice-President Fairbanks of Indiana. In the Democratic party the preponderance of sentiment seems to be in favor of William J. Bryan of Nebraska. Some of the conservative elements are opposed to him, and most of them are uniting on Governor John A. Johnson of Minnesota. Judge G. Gray of Delaware has also been put forward as a candidate.—The People's Party held its convention at St. Louis on April 3 and nominated Thomas E. Watson of Georgia and S. Williams of Indiana. The Bryan wing of the party has threatened to secede.

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**STATE AFFAIRS**—The legislature of **Alabama** passed a prohibition bill in November by a two-thirds majority.—Senator S. R. Mallory of **Florida** having died in December, William James Bryan was appointed by the governor to serve out the unexpired term. Senator Bryan died in March, and H. Milton was appointed to succeed him.—**Kentucky** was the scene of numerous outrages committed by "night riders" in the war against the American Tobacco Company, the "tobacco trust." Independent tobacco growers and dealers who refused to hold their crops for higher prices or who sold to the "trust," were assaulted at night and their property was burned. One farmer was murdered in March. It was reported on March 24 that an agreement had been reached which would put an end to "night riding." W. O. Bradley, Republican, was elected United States senator, on February 28, after a long struggle, by the aid of four Democratic votes.—W. P. Whyte was elected United States senator from **Maryland** to fill an unexpired term. He died in March, and J. W. Smith, who had already been elected for the full term beginning on March 4, 1909, was elected in his place.—A special commission on commerce and industry, appointed July, 1907, reported to the **Massachusetts** legislature in favor of permitting the merger of the Boston and Maine with the New York, New Haven and Hartford Railroad.—The **Mississippi** legislature passed a prohibition bill.—Governor J. K. Toole of **Montana** resigned on account of ill-health, and on April 15 Lieutenant-Governor E. Norris became chief executive for the remainder of the term, which ends on January 1, 1909.—The legislature of **New Jersey**, largely as a result of the efforts of Governor Fort, passed a civil service commission bill.—Governor Hughes of **New York** appointed in November an advisory commission of six bankers, headed by A. B. Hepburn, to consider the banking situation and to suggest such new legislation as might seem necessary. The commission's report favored larger required reserves in state banks and in trust companies, limitations on the organization of branches, and the granting to the superintendent of banks of greater and more direct supervisory power and the power to appoint receivers of insolvent banks. Most of the recommendations were embodied in statutes enacted by the legislature. In his annual message to the legislature in January, Governor Hughes recommended the prohibition of race-track gambling, direct nominations, ballot reform, and the extension of the jurisdiction of the Public Service Commission to include telegraph and telephone companies. A strong fight, led by the governor, was made in favor of the bills prohibiting race-track gambling. The measures were passed by the Assembly, but were beaten in the Senate by a tie vote. The governor again requested the Senate to remove Superintendent of Insurance Kelsey (see **RECORD** for June, 1907, p. 370) on the ground of inefficiency, but his recommendation was defeated a second time.—The **Ohio** legislature passed a county local-option bill in February.—**Oklahoma** and Indian Territory became a state under the name of **Oklahoma** on November 16, when President Roosevelt signed a

proclamation admitting it into the union. In December the legislature of the new state passed a bill guaranteeing state bank deposits.—Several more indictments were found by the Dauphin county grand jury against persons implicated in the state capitol scandal in **Pennsylvania** (see last RECORD, p. 757). The trial of the first cases began in February, and four convictions were obtained March 13.—G. P. Wetmore was again elected to the United States Senate from **Rhode Island**.—Senator A. C. Latimer of **South Carolina** died in February, and F. B. Gary was elected to serve for the remainder of the term.—The General Assembly of **Virginia**, on March 26, adopted a resolution removing from office Judge J. W. G. Blackstone of the eleventh circuit, on the grounds of immorality and gross neglect of official duty.

**MUNICIPAL AFFAIRS.**—On December 10, for the first time in six years, **Boston** went Republican, the Democratic mayor, J. F. Fitzgerald, who was a candidate for re-election, being defeated by G. A. Hibbard.—The traction problem of **Chicago**, the leading issue in its municipal politics, has been settled by the "modified reorganization plan," devised by United States Circuit Judge P. S. Grosscup and Professor J. C. Gray of Harvard. A new company, the Chicago Railways Company, is to take up all the outstanding evidences of indebtedness of seven decrepit companies and to issue in lieu thereof new bonds and stocks of its own. An amazing system of corruption involving city employees and big business firms was uncovered in the Water Department in March. In the spring election of members of the City Council, on April 7, the Republicans were victorious.—Immediately after the November election Mayor T. Johnson of **Cleveland** took up the campaign against the public-service corporations. The Cleveland Electric Railway Company, the five-cent fare corporation, was denied a twenty-five year franchise, and after seven years of warfare finally agreed to Mayor Johnson's plan of merging the three-cent and five-cent roads under a holding company.—The commission plan of government of **Des Moines**, Iowa, was decided to be constitutional by Judge J. A. Howe of the district court, in November.—In **Milwaukee**, on April 7, the Democratic candidate for mayor, D. S. Rose, was elected; the Socialist candidate was second in the race, the Republican nominee third.—The Public Service Commission of **New York City** continued its investigation into the street railway systems (see last RECORD, p. 758). It was discovered that the Brooklyn Rapid Transit Company had charged to the construction account payments to politicians, and that its directors had manipulated its bonds. Several of the traction companies are in the hands of receivers. State Attorney-General Jackson brought a suit to annul the charter of the New York City Railway Company on the ground of insolvency. At the trial it was disclosed that by manipulation of accounts deficits had been reckoned as assets.—On December 21 Judge Hough of the United States circuit court affirmed the findings of Arthur H. Masten, master in chancery, holding the eighty-cent-gas law unconstitutional. The application of the Public



Service Commission that the court fix a rate of eighty-four cents was later denied. An appeal was taken to the United States Supreme Court. The case hinges on the question whether a franchise for which nothing was paid should be counted as a part of the capital on which reasonable earnings must be allowed.—J. F. Ahearn, president of the borough of Manhattan, was removed from office by Governor Hughes on December 9 for neglect of duty (see last RECORD, p. 758). He was re-elected by the aldermen, who have power to fill the vacancy. A *quo warranto* suit was then begun by the attorney-general to exclude Ahearn from office.—The charter revision commission appointed by the governor made a report on December 2. The state legislature passed a bill providing for another commission to complete the work and investigate the conduct of the city departments.—**Pittsburg** and **Allegheny** have been consolidated into one city.—On January 9 the district court of appeals set aside the conviction of ex-Mayor Schmitz of **San Francisco** on the charge of extortion (see last RECORD, p. 759), on the ground that the acts of which he and Ruef were found guilty were not criminal offenses. Schmitz was released from prison in March, but is to be tried on other indictments. Ruef was re-indicted, and new indictments were also found against Patrick Calhoun, president of the United Railways, and T. L. Ford, general counsel for the same corporation.

**THE TRUST PROBLEM AND THE RAILWAYS.**—The taking of testimony in the suit brought by the federal government to dissolve the **Standard Oil Company** (see last RECORD, p. 760) has been carried on before Special Examiner Ferriss for the United States circuit court of Missouri. Until January 17 the hearings took place in New York. By agreement of the attorneys for both sides, in order to save time, those parts of the testimony taken in various other suits against and investigations of the company which the government wished to include were read into the record without calling the witnesses. Frank B. Kellogg, attorney for the government, brought out an agreement between the Standard Oil Company and the Pennsylvania Railroad, dating from 1877, by which the railroad agreed to pay the company a "commission" of ten per cent of the freight rate on all oil shipments. The hearings were resumed at Washington on January 23. Deputy Commissioner of Corporations E. Dana Durand testified that shipments of oil were way-billed at one rate but were actually carried at a much lower rate; Special Agent T. C. M. Schindler of the Bureau of Corporations testified that the company received unpublished, secret rates from Burlington, Vermont, to many distributing points in Vermont.—On January 4, Judge J. R. Hazel, in the United States district court at Buffalo, overruled the demurrers filed by the Standard Oil Company to indictments found against it by the federal grand jury at Jamestown, New York. In this case there are seven indictments containing over 1700 counts.—The hearings in the action brought by the government to dissolve the **American Tobacco Company** (see last RECORD, p. 760) were held before United States Commissioner Shields at New York. It was brought out that the

company manufactures 1500 brands of smoking tobacco and 200 brands of cigarettes. One of the vice-presidents of the company testified that it desired competition, that it controlled only 1000 of the 600,000 retail cigar stores in this country and that it owned only one of the 5000 tobacco jobbing concerns. He denied that the company bought concerns to stifle competition. The hearings closed on March 24.—On December 3, the **powder trust** filed its answers in the suit brought against it by the government in the United States circuit court at Wilmington, Delaware (see last RECORD, p. 761). The answers deny that the defendants ever entered into any illegal contracts in restraint of trade or that they unfairly competed with other manufacturers for the purpose of obtaining supremacy. They also deny the existence of any conspiracy for the purpose of restraining interstate commerce.—In April indictments were returned against the alleged **naval stores trust** by the federal grand jury at Savannah, Georgia.—**State action against corporations** has not slackened. In December a Chicago grand jury returned indictments against members of an Illinois milk dealers' association on a charge of conspiracy in restraint of trade. Minnesota instituted proceedings to oust the Standard Oil Company of Indiana from the state, on the ground that it violated the law forbidding discrimination between cities in the prices charged for commodities. Attorney-General Hadley of Missouri instituted *quo warranto* proceedings to expel from the state the International Harvester Company for alleged violation of the state anti-trust laws.—The supreme court of Ohio affirmed the decision of a lower court in the ice trust cases, in which several persons were sentenced to imprisonment in the workhouse for six months, but ordered them to be resented on the ground that they could be sent to the county jail, but not to the workhouse. The ice trust men were resented and began to serve their term in the county jail at Toledo on February 4. These are the first persons in the United States convicted of violating anti-trust laws to serve a jail sentence. After they had been imprisoned for thirty-seven days, sentence was suspended and they were released. The prison sentences of the twenty lumbermen who were convicted of violating the Valentine anti-trust law (see last RECORD, p. 761) were also sustained, but on April 3 the men were resented, for the same reason as in the other cases, and fines were imposed in place of imprisonment.—By a decision of the supreme court of Tennessee, rendered on April 11, the Standard Oil Company was denied the right to do business in that state because it had acted in restraint of trade. The case was appealed to the Supreme Court of the United States.—Texas is continuing its suits against the subsidiary corporations of the Standard Oil Company. Receivers were appointed for several of the concerns, including the Waters-Pierce Company. The latter was fined \$1,600,000 and ousted from the state for violating the anti-trust laws; the case has been appealed.—Because of the stringent insurance laws which went into effect in Wisconsin, a majority of the foreign insurance companies ceased to do business in that

state.—A bill in equity was filed by the United States government in Salt Lake City in January, to dissolve the **Harriman merger**. It asks that the control of the Southern Pacific and San Pedro, Los Angeles and Salt Lake roads by the Union Pacific Railroad Company be set aside, and that the ownership by the Union Pacific, or the Oregon Short Line, of stock in the Santa Fe, the Great Northern and the Northern Pacific be declared illegal, all of the above lines being competitors of the Union Pacific. Mr. Harriman made his answer on April 6. He denied that the Union Pacific controlled the affiliated lines and that he and the other defendants had conspired to restrain trade and competition.—On January 17, in the United States district court at New York, Judge Hough directed E. H. Harriman to answer all the questions, with one exception, to which he had refused to reply in the investigation of the Union Pacific system by the Interstate Commerce Commission last winter (see *RECORD* of June, 1907, p. 372). The questions relate to the interest of Mr. Harriman and other directors of the Union Pacific in the sale of securities to the Union Pacific.—The government is continuing to push actions against railways and shippers for **rebating**. The Atchison, Topeka and Santa Fe Railway, which was convicted of rebating at Los Angeles on October 11 (see last *RECORD*, p. 762), was fined \$330,000. G. L. Thomas, a freight broker, and his clerk, L. B. Taggart, were convicted at Kansas City, Missouri, in January, of conspiring to give rebates, and were fined \$7000 and \$4000 respectively.—On March 10, at St. Louis, the St. Louis and San Francisco Railway Company, which pleaded guilty to thirteen indictments for rebating, was fined \$13,000; the Chapman and Dewey Lumber Company, to which the rebates had been granted, later pleaded guilty and was also fined \$13,000. The Great Northern Railway Company was found guilty in New York, in April, of having granted rebates to the American Sugar Refining Company and was fined \$5000; at the same time it was convicted on a similar charge in Milwaukee and fined \$3000.—The United States Supreme Court handed down a decision in February that the Hepburn Act of 1906 does not repeal the first section of the Elkins Act prohibiting rebates by railways. It was announced in March that the administration would not prosecute railways for failure to comply with the "commodity clause" of the Hepburn Act, prohibiting a railroad to transport any article produced by it, until a test case could be brought before the Supreme Court. The provision is aimed against railroads that own coal mines and goes into effect on May 1.—The contest over **two-cent-fare** legislation (see last *RECORD*, p. 762) has been subsiding in the majority of the states concerned. In Alabama the legislature was convened in extraordinary session in November by Governor Comer for the purpose of enacting railroad legislation. It passed about twenty acts, including several maximum-rate bills and penalty measures. Restraining orders were issued by Judge T. M. G. Jones of the federal court, suspending the execution of the laws. An agreement was concluded in January between the Southern Railway and the

Georgia railroad commission for an adjustment of passenger rates in the state. The state of Kansas was enjoined by the United States circuit court, in March, from putting into effect a new schedule of freight rates. The Missouri railroad companies announced that they would contest the two-cent passenger-fare law. The Missouri statute forbidding foreign corporations to transfer suits brought against them from the state to the federal courts was declared unconstitutional by United States District Judge S. McPherson. On December 4 the supreme court of North Carolina upheld the two-and-one-fourth-cent-rate law (see last RECORD, p. 762). An arrangement was later reached, however, the railroads agreeing to introduce throughout the Southeast a flat rate of two and one-half cents per mile with mileage reductions. Governor Glenn then summoned a special session of the legislature to change the law which had fixed the rate of fare at two and one-fourth cents a mile. On January 20 the supreme court of Pennsylvania declared the two-cent-fare law enacted by the last legislature to be unconstitutional. In South Dakota a temporary injunction was issued by the federal court in January restraining the railroad commission from reducing passenger rates from three to two and one-half cents per mile. The Tennessee railroad commission ordered all railroads to put into operation a two-and-one-half-cent rate. A serious blow was given in March to state railroad-rate legislation by a decision of the United States Supreme Court, which declares the rate laws enacted by Minnesota and North Carolina to be unconstitutional, because of the enormous penalties imposed for violations and because they had been held to be confiscatory by lower courts.

**LABOR AND CAPITAL.**—The financial panic of the autumn was followed by an industrial depression, throwing a very large number of workmen out of employment and causing great misery and suffering, particularly in the large cities. Two decisions were rendered during the winter by the Supreme Court of the United States which have a far-reaching effect on organized labor. The first declared unconstitutional that portion of the Erdman Act which prohibits common carriers from discriminating against members of labor organizations; the second held that a boycott in restraint of trade is actionable under the Sherman anti-trust law (see FEDERAL JUDICIARY). In New Orleans, in February, the members of the Dock and Cotton Council, consisting of representatives of all classes of labor employed on the river front, were indicted by the federal grand jury on the charge of conspiring to restrain trade in violation of the Sherman anti-trust act. In Cleveland the Amalgamated Glass Workers' Union was held by the court of common pleas to be acting in restraint of trade and it was ordered that it be dissolved on the ground of public policy.—On December 5 President Roosevelt, acting on the request of Governor Sparks, dispatched troops to Goldfield, Nevada, where a miners' strike was in progress and bloodshed was feared. The Western Federation of Miners insisted that the soldiers were unnecessary, as no acts of violence had been committed. To investigate the trouble between the miners and the mine owners, Presi-

dent Roosevelt sent to Goldfield, on December 11, a commission consisting of Assistant Secretary Murray of the Department of Commerce and Labor, Commissioner of Labor C. P. Neill, and Commissioner of Corporations H. K. Smith. A few days later the president informed the governor that, as there was no evidence that the local authorities were unable to maintain order, he would have to withdraw the federal troops. To prevent this, Governor Sparks, on December 30, summoned the legislature to meet in extraordinary session on January 14, and President Roosevelt postponed the recall of the troops. On January 12 the report of the commission sent by the president to Goldfield was made public. It stated that the conditions did not support the allegations in the governor's request for troops and recommended that the troops be removed shortly after the meeting of the legislature. A few days later the legislature convened and petitioned the president to keep troops in Goldfield until a police force could be organized. President Roosevelt acceded to this request.—On February 19 President Roosevelt wrote to the Interstate Commerce Commission asking it to investigate the real merits of controversies over wages between railroads and their employees, where it was alleged that governmental interference necessitated reductions. It was said that this action intimidated some of the railroads and prevented reductions of wages.—G. A. Pettibone, who was indicted with W. D. Haywood (see last RECORD, p. 763) for conspiring to murder Governor Steunenburg of Idaho, was acquitted at Boise on January 4. C. H. Moyer, accused of the same crime, was discharged. H. Orchard, who had turned state's evidence against Haywood, later pleaded guilty and was sentenced to death, but Judge Wood strongly recommended to the state board of pardons that the sentence should be commuted to imprisonment.—The contracts under which miners in the bituminous coal fields were working expired on March 31, and almost two hundred and fifty thousand men temporarily stopped work. A new agreement between the miners and the operators was reached, and the men resumed work on April 20.—The union men employed by the Louisville Street Railway Company went on strike, on November 15, for an increase in wages and for the reinstatement of several discharged men.—On December 3 fifteen hundred men were locked out by building contractors in an open-shop contest at Duluth, Minnesota. This action followed a threat of the labor leaders to call out all union men at work on a new office building because some non-union men were employed.—Early in January a strike of street-car employees took place at Muncie, Indiana. There was rioting, and the state militia was called out. Muncie was placed under martial law by a proclamation of the governor. The labor unions then declared a boycott against the Indiana Union Traction Company.—Three thousand coal miners employed in mines near Pittsburg went on strike on February 4 because of the enforcement of the rule requiring the use of smokeless powder instead of the ordinary black powder.—On March 16 fifteen hundred machinists and other workmen employed in the shops of the Denver

and Rio Grande Railway at Denver struck as a result of an order issued by the railroad abrogating all contracts with the unions. It was threatened that the strike would spread to every road in the Gould system.—Street-car strikes, attended with a good deal of violence, took place in April at Chester, Pennsylvania, and at Pensacola, Florida.—New cases of **peonage** have been uncovered. In November a special policeman for the Thacker Coal and Coke Company was convicted and fined in the federal court at Charleston, West Virginia, on the charge of conspiring to hold persons in peonage. Complaints were made in February that newly arrived immigrants were enticed into conditions approaching peonage in the establishment of Civil Service Commissioner J. A. McIlhenny in Louisiana.

**THE RACE PROBLEM AND LYNCHING.**—On March 11 the Senate Committee on Military Affairs brought in its final report on the **Brownsville affair** (see RECORD of June, 1907, p. 365). The majority report, supported by four Republican and all the Democratic members, upheld the action of the president in discharging on November 9, 1906, the colored soldiers stationed at Brownsville, Texas, on the ground that they had "shot up the town." A dissenting report was made by Senator Foraker. At the same time President Roosevelt sent a message recommending legislation permitting the re-enlistment of such of the soldiers as could prove their innocence, and a bill to this effect was introduced. On April 14 Senator Foraker spoke against this bill, which he declared unjust, and plead for the passage of his own measure providing for the reinstatement of all the men.—Early in April President Roosevelt directed Attorney-General Bonaparte to proceed by injunctions to compel Southern railroads to furnish equal accommodations to white and negro passengers.—The first lynching in the new state of Oklahoma took place on December 24, when a negro was hanged to a pole at Henrietta and his body riddled with bullets for murdering a prominent white business man. All negroes were then ordered to leave Henrietta within forty-eight hours.—A race riot occurred in Valdosta, Georgia, on January 18, in the course of which two negroes were arrested; after midnight a mob set fire to the jail, and the two prisoners were burned to death.—A young white man was shot and wounded on January 19 at Dothan, Alabama, by a negro; the latter was hanged at night by a masked mob, but, while still alive, was cut down by officers of the law.—At Quitman, Georgia, on February 2, a negro arrested for murder of a white woman attacked the sheriff, who tried to defend him from a lynching mob, and was then shot by one of the deputies.—Two negroes, charged with the murder of a husband and wife, were lynched at Hawkinsville, Georgia, early in March.—Several warehouses were burned near Van Cleave, Mississippi, in March, and, in revenge, four negroes were lynched by a mob of thirty men.—A race riot between negroes and Greeks took place at Belhaven, North Carolina, on March 11, because the Inter-State Cooperage Company was replacing negro labor with Greeks.

## III. LATIN AMERICA

The **Argentine** Congress was dissolved in January by the government on account of the obstruction encountered in both houses. Elections to fill one-half the seats in the Chamber were held on March 8, and resulted in a complete victory for the government, as the opposition, with the exception of the Socialists, abstained from voting.—**Chile** suffered a temporary financial crisis in November, owing to an unprecedented fall in the rate of exchange, and four banks failed. Several lives were lost in a riot of striking nitrate workers in the Iquique district in December. The government is active in the construction of public works: a contract has been awarded to a German firm for a railway from Arica to La Paz; the Creusot Works of France have begun a big wharf at Corral; and a bill passed Congress on January 22 providing an appropriation for the Longitudinal Railway, to be built from the Peruvian frontier to the straits of Magellan, a distance of 2600 miles. The census taken at the close of 1907 gave the total number of inhabitants of the republic as 3,250,000.—The 1908 budget as approved by the **Brazilian** Congress fixes expenditures at 114 million dollars. The government in April contracted with a Japanese immigration company for Japanese field laborers to be employed in the state of Sao Paulo.—A new ministry took office in **Colombia** on March 11 with Sr. F. J. Urrutia as premier. President Reyes left Bogota on April 18 on a tour through the departments, in order to gather material for a report on the national industries.—A decree of the **Venezuelan** government, November 19, materially increased the duties on agricultural imports. The Federal High Court handed down on March 17 a decision, from which there is no appeal, annulling the famous Fitzgerald concessions under which several American companies claimed rights in Venezuela.—**Bolivia** completed arrangements in March with an American syndicate for the construction of a railway from Oruro to Potosi.—**Ecuador** announced in November that a national exposition would be opened at Quito in August, 1909, in commemoration of the republic's centennial.—The Congress of **Paraguay**, which met in December in extraordinary session, adopted a project for the establishment under governmental authorization of a mixed bank to be known as the Bank of the Republic.—The **Uruguayan** Chambers early in November sanctioned a bill establishing absolute divorce under exceptionally broad conditions. The general elections on November 25 aroused little interest, the government securing 73 seats and the Nationalists 14. A strike on the Central Uruguayan Railway in February was troublesome, but was suppressed.—President Figueroa of **Salvador**, by decree of November 20, granted amnesty to all political offenders, suspended martial law, declared the constitution again operative and promised the people a fair administration of the government. Congress in February approved a loan of five million dollars to be raised in England.—An uprising of Mosquito Indians in December was easily put down by the **Nicaraguan** government.—General Miguel R. Davila was elected president of **Honduras** on January 31. The govern-

ment in March permitted ex-President Policarpo Bonilla to return to Honduras to devote himself to agriculture.—The **Guatemala** Northern Railway from Puerto Barrios on the Atlantic to San José on the Pacific, work on which has been in progress since 1892, was formally opened on January 19.—The new constitution of **San Domingo**, which was promulgated by the constitutional convention in February, went into effect on April 2. It fixes the term of office of the president at six years and abolishes the office of vice-president.—The census taken in 1907 reports the total population of **Cuba** as 2,028,282, the provinces of Havana and Santa Clara being the most populous. (See also INTERNATIONAL RELATIONS, AMERICAN, *supra*.)

#### IV. THE BRITISH EMPIRE

**THE UNITED KINGDOM.**—Parliament was opened by the king on January 29. Measures were promised dealing with old-age pensions, license, education, miners' hours, Irish and Scotch land, juvenile offenders and other subjects. The juvenile offenders bill, establishing children's courts, abolishing juvenile imprisonment and prohibiting smoking by persons under sixteen, was introduced on February 10. The new education bill, a modification of the one rejected last session, was presented by Mr. McKenna on February 24 and was vigorously attacked by Mr. Balfour and the archbishop of Canterbury. The government's licensing bill, which contemplates the reduction of licenses to a fixed number in proportion to the population, was brought in on February 28. The Commons in March passed the army bills, providing for an establishment of 185,000 regulars, exclusive of those employed in India, and carrying appropriations of over \$47,000,000. The government is pushing an old-age pension measure involving an estimated annual outlay of \$70,000,000. An unemployed workmen bill was opposed by Messrs. Burns and Asquith and rejected in March by 265 votes to 116. The Irish University bill was introduced in March by Mr. Birrell. A home-rule resolution by Mr. Redmond was carried on March 30 by a majority of 156, with a government amendment declaring that the Irish Parliament must be subject to the Imperial Parliament's supreme authority.—Sir Henry Campbell-Bannerman's resignation of the premiership in April on account of continued ill-health necessitated a reorganization of the **ministry** with the following results: H. H. Asquith, premier and first lord of the Treasury; David Lloyd-George, chancellor of the Exchequer; Lord Tweedmouth, president of the Council; Earl Crewe, secretary of state for the colonies; Reginald McKenna, first lord of the Admiralty; Winston Churchill, president of the Board of Trade; and Walter Runciman, president of the Board of Education. The marquis of Ripon remained lord privy seal, but at his request Earl Crewe assumed the leadership in the House of Lords. The new cabinet was well received by the Liberal press, but Mr. Churchill's defeat for reelection from Manchester, late in April, was interpreted as a sign of its declining prestige. The



acceptance in April of the title of viscount by John Morley, secretary of state for India, was held to imply that the idea of reforming or abolishing the House of Lords (see last RECORD, p. 766) had been temporarily dropped.—**Woman suffragists** made demonstrations throughout the winter in the cities, before the houses of cabinet officers, even in Parliament; and several women, refusing to pay fines, were sent to jail. Mr. Asquith stated in February that the government could not initiate woman suffrage.—The annual conference of the **Labor party**, which was held in January at Hull, rejected an amendment to the constitution of the party embodying socialistic principles but passed a resolution declaring that the time had come when the Labor party should adopt socialism as the definite object of the organization. Mr. A. Henderson, M. P., succeeded Mr. Keir Hardie as chairman of the party.—The Court of Appeal in March confirmed judgment against the working agreement between the Great Northern and Great Central Railways.—The National Liberal Convention of **Wales** presented a petition to the government in November for a Welsh disestablishment bill in 1909.

**CANADA**.—The **Dominion Parliament**, which was opened on November 28, has been engaged in amending the insurance law, revising the Public Lands Act and dealing with other important measures. The budget, as adopted in March, contains appropriations for the new transcontinental railway and for the nationalization of the battlefields of Quebec. Sir Wilfred Laurier, in a statement in January, advocated a reform of the Senate on the lines of the United States system, suggesting six senators from each of the nine provinces.—Details were arranged in January for a loan to the western provinces of over \$3,500,000 for the purpose of providing seed grain for settlers whose crops failed last year. The government later announced free grants of 320 acres of land in Manitoba and the Northwest to men in that locality who served as volunteers in the South African war.—The total number of **immigrants** into Canada during 1907 was 277,376, of whom 56,551 came from the United States. From April 1 to December 1 immigration averaged over 1000 a day, and in December the Dominion government telegraphed instructions to its agents in Europe to discourage further immigration for the winter. Orders in council became operative in April prohibiting the landing in the Dominion of any person whose passage had been paid, wholly or in part, by any charitable organization or from public moneys, and authorizing the governor in council to refuse admission to immigrants who do not come on a through ticket from their country of origin or adoption.—An order in council, passed in January, declared that after January 1, 1909, the **coasting trade** of Canada will be confined to British ships. The estimated imports from Great Britain to Canada in 1907 were \$78,000,000 and from the United States \$165,000,000.—The **Quebec** legislature, which was opened on March 3, adopted measures providing further aid to public schools, the reform of the law courts, and a subvention to the Quebec tercentenary celebration.—The

Robinson government was defeated at the general elections in **New Brunswick** in March, and for the first time in twenty-five years a Conservative majority was returned. Mr. J. D. Hazen became premier.—A measure establishing for **Asiatia** a system of registration similar to that in force in Natal passed the legislature of **British Columbia** and received the assent of the lieutenant-governor in February, but was declared unconstitutional because in conflict with treaty. (For negotiations for the restriction of Japanese immigration, see **INTERNATIONAL RELATIONS, AMERICAN**, *supra*, p. 353.)

**AUSTRALASIA**.—The federal Parliament of **Australia** ratified in November the mail contract with the Orient Company, which carries a subsidy of £170,000 and provides for direct service after February 1, 1910, between Brisbane and the United Kingdom by ships flying the Commonwealth flag; and it began consideration in February of the government's defence scheme, involving universal military training and the maintenance of an Australian fleet. The House in March voted urgency for an old-age pension measure. Lord Dudley replaced Lord Northcote as governor-general of the Commonwealth in March. Imports for 1907 amounted in value to £51,878,171 and exports to £72,903,440.—A serious coal strike in **New South Wales** in November was ended by the adoption of the miners' proposal for submitting the dispute to a court composed of a judge and two experts, one nominated by each party. A conference of the Labor party rejected, in January, by 118 votes to 27, a resolution in favor of collective ownership of the means of production, distribution and exchange. The state Parliament met in special session on March 10 to act on an amendment to the Arbitration Act creating two-year appointive boards for each industry and also to make a number of forfeited improvement leases available for settlement.—Mr. Kidston, the premier of **Queensland**, resigned in November because of lack of support by the Labor party, and his successor, Mr. Philp, unable to secure a majority, dissolved Parliament and appealed to the country. The elections in February returned 25 Ministerialists, 25 Kidstonites and 22 Laborites. Mr. Philp promptly resigned and Mr. Kidston again assumed office. The government announced in March plans for the introduction of the referendum in deadlocks between the two Houses, and for extensive railway construction.—The Parliament of **South Australia** in December authorized the transfer of the northern territory of that state to the Commonwealth.—**Western Australia** adopted in December an income tax which is expected to realize £80,000.—The government of **New Zealand** announced in November its intention of acquiring in a year's time the Manawatu private railway, payment being settled by arbitration under the act of 1881. Parliament adjourned late in the month after the longest session on record. The most important measures passed were land and tariff laws, a heavy increase of the graduated tax, the reservation of national endowments for old-age pensions and education, schemes of classification and superannuation for the public service, and a further

restriction of Chinese immigration by the imposition of an educational test in English reading in addition to the present £100 poll tax. The Legislative Council rejected a resolution in favor of compulsory military training. The Parliament buildings at Wellington were destroyed by fire on December 9.

**SOUTH AFRICA.**—Elections to the Legislative Council of **Cape Colony** in January and to the Assembly in March were notable for very heavy polling and for an unexpected increase in the strength of the South African party. Dr. Jameson, who had been premier since 1904, resigned on January 31, and his successor, Mr. J. X. Merriman, declared that he should regard the elections as a mandate to form a united South Africa and to adjust the finances of the country.—Over 7000 Asiatics at first refused to comply with the **Transvaal** Registration Act, and there were several arrests and light sentences of Indians together with some expulsions in December and January, but, after negotiations between the officials and Mr. Gandhi, the Indian leader, the Asiatics "voluntarily" registered in February and the passive resisters under arrest were released. A special arrangement was effected with the Portuguese government in December for the shipment of Transvaal coal from Delagoa Bay. Negotiations were opened in February with the French government with a view to recruiting native labor from Madagascar. The opposition of the Botha ministry to a protective tariff was reported to be causing the defection of a large section of the *Volk* party.—The result of the elections to the first Parliament of the **Orange River Colony** under the new constitution was a sweeping victory for the Dutch party, *Orangia Unie*, which carried 30 out of 38 seats. Mr. Fischer was named premier, and Parliament was opened on December 18 by the governor, Sir H. J. Goold-Adams, who stated that only the most urgent business would be transacted in this session.—On account of several murders and outrages and the threatening attitude of the natives, the governor of **Natal** in December proclaimed martial law in Zululand. Dinuzulu, the chieftain who is held responsible for the agitation, was arrested on December 9 and is now undergoing trial. The governor suspended martial law in January, and in March pardoned 488 natives implicated in the rebellion of 1906.

**INDIA.**—The **National Congress** opened at Surat on December 26 with 2000 delegates and many others present. Ill feeling was manifest from the start between the moderates and extremists, and on the 27th the Congress broke up amid great excitement. The moderates in session on the 28th under the leadership of Dr. Behari Ghose formed a committee of prominent men, including Mr. Lajpat Rai, to reconstitute the Congress on its original lines for the ultimate attainment of colonial self-government by constitutional means. The extremists, dominated by Mr. Tilak, held a separate meeting and appointed a committee to carry on the work of the Congress on the basis of the Calcutta resolutions of 1906.—The employees, native and European, on the East Indian Railway struck in November

because of overwork and poor pay; communication was suspended between Allahabad and Bengal, and the business of Calcutta was at a standstill; the government formed boards of conciliation which settled the differences in January.—It was estimated in December that a quarter of a million Mohammedans died of the **plague** in the Punjab because they refused to leave infected villages, on the ground that Mohammedans are forbidden to flee from the wrath of God. The government printed and distributed a large number of copies of a decision of the principal *maulvis* of the Punjab declaring that the Koran expressly enjoined Mohammedans to quit places smitten by Allah with disease.—A deputation of influential Hindus petitioned the viceroy in March to secure religious instruction in the public schools.—An expedition was sent into the Bazar valley in February to punish the Zakka Khels for raiding the country.—The yield of the cotton crop for 1907 was reported officially as forty per cent below the yield of the preceding year. Great suffering has resulted from **famine**, and the number of persons in receipt of state aid throughout India has steadily risen until, on April 15, it was over a million and a half.

**OTHER DEPENDENCIES.**—It was reported in November that riots had occurred in **West Africa** on account of the compulsory employment of natives in road-making.—An uprising of the Kisii people in the middle of January in **East Africa** was suppressed by a punitive expedition.—Mr. Hesketh Bell took office on November 26 as the first governor of **Uganda**.—The governor of **Nyasaland** on March 31 opened a new railway, 100 miles in length, connecting Port Herald and Chiromo on the Shire, a navigable tributary of the Zambesi, with Blantyre, the capital of the protectorate. It is proposed eventually to extend the line to Zomba and Lake Nyassa.—The Anglo-French convention for joint jurisdiction over the natives of the **New Hebrides** went into effect on December 1. The joint court is composed of a judge appointed by each government and a president and public prosecutor appointed by the king of Spain.—There was considerable opposition in the **Straits Settlements** in December to the stamp ordinance imposed in order to meet the deficit in the budget.—The governor of **Jamaica** in opening the Legislative Council in January stated that Kingston was practically restored, thanks largely to contributors to the relief fund, and that the financial outlook was promising, the current year closing with the largest cash balance in the recent history of the island. The Council in March appropriated £100,000 as the first instalment of an insurance fund against future disasters. (For Egyptian affairs, see *infra*, p. 384.)

#### V. CONTINENTAL EUROPE

**FRANCE.**—The **Chambers** have been in session during the greater part of the period under review. The most important measures considered were: proposed amendments to the Separation Law of 1905, enabling direct heirs only to bring legal action for the recovery of property bequeathed to the church, the object being to defend the departments and communes

from the lawsuits with which they have been threatened by the Clericals; an income tax; an old-age pension bill; the budget; and an army bill reducing immediately the period of training for the reservists to two separate periods of 23 and 17 days, and that of the territorialists to one week. The church property or "devolution" bill, after a bitter six weeks' debate, was adopted in the Chamber of Deputies by a majority of 177, and, after being so amended that property devoted to masses for the dead might still be employed for that purpose, it passed the Senate April 10. The debate on the income-tax bill was opened by the Deputies on January 20, and its most important article was passed on March 9 by 361 votes to 143. The two Chambers differed on the details of the old-age pension bill, and the Deputies in March adopted, 474 to 66, a proposal of M. Millerand calling on the government to "obtain from the Senate during the present year a favorable vote" on the measure. The army bill was passed by the Deputies in December and by the Senate in February. The budget was voted on December 31. In addition to the foregoing measures, the Chambers passed a bill for the protection of art treasures, especially in churches and museums, authorized the appointment of an extraordinary commission to draw up a plan for the reorganization of the navy, and made special appropriations for the improvement of the port of Havre and the estuary of the Seine, and for the Franco-British exhibition in London. The Senate adopted in March the Briand bill, providing that judicial separation shall be changed into divorce after three years on the application of either party. A bill passed the Chamber of Deputies in April extending amnesty to offenders in connection with the wine-growers' agitation in the South, but an amendment for the amnesty of anti-militarists, anti-patriots and insubordinate civil servants was firmly resisted by M. Clemenceau and rejected by 460 votes to 73.—There is considerable agitation in favor of **parliamentary reform** by a group in the Chamber, including MM. Delcassé, Deschanel, Buisson, Ribot, Cochéry, Doumer and Abbé Lemire. They urge the *scrutin de liste* with proportional representation, the redistribution of seats and a reduction of the number of deputies. In November they addressed a memorial to the premier on the subject.—The central administration of the French Foreign Office was reformed on January 1 by amalgamating political and commercial affairs on the model of the British Foreign Office.—A partial redistribution of portfolios in the Clemenceau ministry followed the death of the minister of justice in January, M. Briand retaining the ministry of public worship while taking that of justice, and M. Cruppi becoming minister of commerce.—A section of the **Socialist party**, led by M. Paul Brousse, issued a manifesto in November denouncing as monstrous and anti-Socialistic the anti-patriotic propaganda undertaken "by a small noisy group that is trying to introduce into the Socialist party the theory and methods of anarchy." M. Hervé, the anti-militarist, was sentenced in December to one year's imprisonment and a fine of 3000 francs for libeling and insulting the French army and navy, and his associates on *La Guerre*

*Sociale*, MM. Almereyda and Merle, were each sentenced in contumacy to five years' imprisonment and a fine of 3000 francs.—The tenth anniversary of the publication of Émile Zola's famous letter "*J'accuse*" was celebrated on January 13. The ashes of the novelist were transferred to the Panthéon on April 2.—A group of Parisian Protestants addressed a petition to the Senate in February, expressing "the invincible horror which they feel for every infringement of the liberty of worship and of private property," and urging that all citizens, of whatever religion, be placed under the safeguards of the common law.—The establishment of a native consultative chamber in French *Indo-China* under the Clémentel administration seems to have increased the agitation for local self-government.

**GERMANY.**—The *Reichstag* met on November 19, and on the next day received the imperial estimates for 1908: revenue and expenditure balance at about 685 million dollars, of which 210 are for the army, eighty-seven for the navy and fourteen for the colonies. The navy bill, calling for the construction by 1917 of seventeen battleships together with seven large and nineteen small cruisers, encountered strong opposition from the Radical and Centre deputies but was passed early in April. An important associations law was passed in March, in spite of the opposition of the Poles, the Socialists and the Clericals, by which the use of the German language is made compulsory at all public assemblies except international congresses and election meetings, with the provision that in those districts where more than sixty per cent of the inhabitants are of non-German origin the use of their mother tongue is to be permitted at public meetings for the next twenty years. The Bundesrath recommended in February that the revenue necessary for the increased budget be derived from a state monopoly of a part of the intermediate trade in spirits and from an excise duty on cigars and pipe tobacco.—The so-called Colonial Council was dissolved by imperial decree in February and its functions distributed among several committees.—The election to the presidency of the *Navy League* of General Keim, a political agitator who opposed the Catholic Centre in the last general election, caused the withdrawal of the Bavarian branch of the League just at the time when the debate on the navy bill was in progress in the Reichstag. It was announced in the *North German Gazette* on January 10 that Prince Henry of Prussia, with the concurrence of the emperor, would resign his position as patron if General Keim continued to hold the office of president. A general meeting of the League at Cassel on January 19 expressed its confidence in its officers, and the Bavarian delegates left the hall.—The first German Dreadnought, the "*Ersatz Bayern*," was launched in the presence of Emperor William at Wilhelmshaven on March 5.—The second trial of Maximilian Harden (see last RECORD, p. 771), this time for criminal libel, lasted from December 16 to January 3. He was found guilty of having libeled Count Kuno von Moltke, was sentenced to four months' imprisonment and costs, and has appealed to the Imperial Court at Leipzig. A court-martial of the guards corps tried General Hohenau

and Count Lynar in January on a charge of being implicated in various scandalous proceedings brought out in the Moltke-Harden litigation; the former was acquitted, and the latter was sentenced to fifteen months' imprisonment.—The libel case of Dr. Peters, the former colonial official, against the *Cologne Gazette*, which was tried in January, once more resuscitated the whole story of the "Peters scandals," and resulted in the acquittal of the editor and the fining of the writer of the article in question.—The **Prussian Diet** opened on November 26. The speech from the throne, read by Prince Bülow, referred to the unsatisfactory condition of the Prussian finances and foreshadowed a deficit on account of greatly increased expenditure. The chief bill presented was one for the expropriation of **Polish** landholders, which in its final form gives the state the right to acquire through an expropriation commission land for German settlers to a total extent of 70,000 hectares, lands held by churches or recognized charitable foundations before February 26, 1908, being exempt. The bill passed both Chambers by a majority composed of Conservatives and National Liberals against a minority of the Radicals, Poles and Centrists. As a consequence of the passage of the bill the Poles are organizing a league for the boycott of German goods, and the movement is assuming serious proportions.—A Radical motion in the Diet on January 10 for the introduction into Prussia of universal, equal and direct suffrage with secret ballot was successfully opposed by Prince Bülow, who said that the influence of the middle class must be maintained. In Berlin, on January 12, as a result of a Socialist demonstration in favor of franchise reform, there was considerable rioting with many casualties and a hundred arrests. Less disorderly demonstrations occurred in many other Prussian cities.

**AUSTRIA-HUNGARY.**—The **Delegations** were opened on December 21 and voted provisional supplies. The Poles in the Austrian Delegation entered a protest against the spoliation of their fellows in Prussia, but Baron von Aehrenthal, minister for foreign affairs, stated that he could not interfere in the internal affairs of a friendly state.—A complete amnesty for all military offenders and deserters of the two countries was proclaimed on December 2, the sixtieth anniversary of the accession of Emperor Francis Joseph.—The **Austrian** budget for 1908, involving expenditures of 429 million dollars, was adopted in November. An imperial rescript of March created a Ministry of Public Works and appointed the Christian Socialist leader Dr. Gessmann head of the new department. Some friction was caused in March by an effort on the part of the papal nuncio to influence the government to remove Professor Wahrmund from his chair of canon law at Innsbrück.—**Hungary** ratified the new customs agreement with Austria in December. The government has had great difficulty in dealing with the **Croatian** problem. The Croats in the Hungarian Chamber, supported by the president, employed obstruction tactics against the Kossuth ministry with such advantage throughout November and December that an amendment to the rules of the Chamber had to be drafted in January in order to

crush further Croatian or non-Magyar obstruction. The Croatian Diet assembled at Agram on December 12 but was immediately dissolved by the ban, who ordered new elections. A new ban, Baron Rauch, who was sent out by the Hungarian cabinet to rule with an iron hand, was received at Agram on January 15 with hooting and a shower of stones. The elections in February returned 44 deputies uncompromisingly hostile to M. Kossuth, 21 members of the Greater Croatian party, and only two supporters of Baron Rauch. This new Diet was opened by the ban on March 12 and was prorogued two days later amid scenes of disorder. It is presumed that the ban, supported by the Hungarian government, will attempt to break Croatian resistance by governing the country without the Diet. Anti-Hungarian feeling runs high throughout Slavonia as well as Croatia.

**RUSSIA.**—The third Duma was opened at St. Petersburg on November 14. Out of 327 deputies, only 62 were ascribed to the opposition, including 25 Constitutional Democrats; there were 166 avowed reactionaries; and the remaining 99, including 64 Octobrists, were more or less lukewarm progressives. The Duma was dominated by a *bloc* formed by the Right and the Octobrists, the former recognizing that the Duma was to be legislative and not merely consultative, the latter agreeing to renounce equal rights for the Jews. A small group of the extreme Right adhered to the program of the Union of the Russian People and refused to enter the *bloc*. On November 27 the Duma by 212 votes to 146 rejected an amendment of the Right to introduce the word "autocracy" into the customary address to the tsar. M. Stolypin in a ministerial declaration intimated that the autocracy was a supreme power to which the tsar would resort whenever the safety of Russia demanded it, as in the case of the promulgation of the electoral law of June 16. The *bloc* concluded an arrangement with the Centre in the Council of the Empire whereby all important measures are to be jointly discussed before their introduction into the respective Houses. The Duma voted in December fifteen million roubles for famine relief. A bill for ensuring freedom of conscience was withdrawn by M. Stolypin in January on account of the opposition of the Holy Synod. A measure for double-tracking the Siberian Railway was presented on January 27. The Duma committee rejected in March the credit asked by the government for the construction of new battleships but approved the remainder of the naval program. M. Kokovtsoff, minister of finance, at a meeting of the budget committee on March 21, estimated the absolutely necessary expenditures on Siberian railways, national defence and famine relief during the next few years at not less than \$75,000,000 annually and declared that new loans were inevitable. The Duma in April debated a temperance measure.—M. Kaufmann was succeeded in the ministry of public instruction in January by M. Schwarz.—Strong reactionary efforts have been made to compel M. Stolypin to shift his position further towards the extreme Right, which is highly dissatisfied with the government's tolerance of Finland, of the Jews and of the autonomy of the universities.—Several trials have attracted wide atten-



tion. That of 203 men accused of complicity in the mutiny of Vladivostok resulted in the sentencing, on December 2, of 20 to be shot, 34 to penal servitude and most of the others to be transferred. In December the treason case in which 55 members of the second Duma were implicated was tried by an extraordinary court, and, on the 14th, 26 were condemned to various terms of hard labor, 12 to exile, and the rest were acquitted. The trial for treason of the 169 members of the first Duma who signed the Viborg manifesto was begun on December 25 and concluded on December 31. All were convicted and sentenced to three months' imprisonment and loss of their political rights, save two who were acquitted on the ground that they had signed the paper under a misapprehension. An appeal was rejected by the Senate in March. The court-martial on the defence and surrender of Port Arthur began at St. Petersburg on December 10, and in February the court condemned General Stössel to death, reprimanded General Fock, and acquitted Generals Reuss and Smirnoff. The tsar commuted the death sentence passed on General Stössel to imprisonment in a fortress for ten years. A court-martial at Zembiansk meted out severe penalties in March to 25 members of the so-called Peasants' Brotherhood, formed with the object of destroying the properties of landowners.—**Disorders** have been rife in various parts of the empire. Early in November, the crew of the destroyer "Skory," incited, it is said, by a Jewess, mutinied in Vladivostok harbor and bombarded the town. The mutiny was suppressed after several lives had been lost and the destroyer had been beached. In December, all Jews were ordered to leave the city within four days, except property owners, who were allowed eighteen days in which to wind up their affairs.—The new **Finnish Diet**, which met in November, was elected by universal adult suffrage, and of its 200 members 19 were women and 80 seats were held by Social Democrats. It speedily passed a drastic measure totally prohibiting all traffic in intoxicating liquors, the only exception being in behalf of the Russian troops in Finland. M. Gerhard was "relieved" as governor-general in February and was succeeded by the reactionary General Bekmann. A conflict ensued in the Diet over the Senate's attitude toward the Russian administration; the Social Democrats maintained that the Senate had not strengthened Finland's powers of resistance, while the Old Fennoman party accused the Senate of endangering Finnish autonomy by paying insufficient heed to Russian desires. The Senate on March 31 voted to present its resignation to the tsar, who on April 10 dissolved the Diet and ordered new elections to be held on July 1.—The repressive policy continues in **Poland**. The governor-general of Warsaw in December closed the Polish school society known as the "Matica."

**ITALY AND THE HOLY SEE**—The Italian Senate, sitting as a High Court, found Signor Nasi, the prominent Sicilian politician and ex-minister, guilty of peculation and sentenced him in February to eleven months' imprisonment and four and a half years' interdiction from holding any public office, and the Court of Cassation in March confirmed judgment. The

trial was accompanied by several demonstrations in Sicily against the government.—The Chamber in February affirmed, as the principle of **religious instruction** in the public schools, that the state school is a lay school and that a lay school means one in which religious instruction is not obligatory but which must give religious instruction to those children whose parents desire it. An amendment for the abolition of religious instruction was rejected by 347 votes to 60.—Sr. Severino Casana succeeded General Vigano as minister of war on January 1.—The minister of public instruction has appointed a commission to supervise the excavations at Herculaneum.—Piux X announced on December 24 his intention of making provision, in the codification of the canon law now in progress, for the establishment of a special court in connection with each Congregation, the tribunal of the Rota being left above all these courts as a supreme court of appeal.

**OTHER EUROPEAN STATES.**—Belgium was agitated by the question of the annexation of the **Congo Free State**. A treaty concluded on November 28 between the Belgian government and that of the Free State was referred to a parliamentary commission of seventeen. The treaty encountered strenuous opposition, chiefly because of the exemption of the rich crown domain from taxation and from full Belgian sovereignty. The Liberals under M. Beernaert and the Socialists under M. Vandervelde were particularly hostile. The death of M. de Trooz caused a change in the cabinet, but M. Schollaert, president of the Chamber, who succeeded to the premiership in January, announced the determination of the government to adhere to the original proposal. On February 4, however, the premier stated that fresh negotiations had been opened with regard to the transfer, and early in March the king agreed to an "additional act," whereby in return for certain concessions the Congo budget would be voted by the Belgian government and the crown domain would be abolished. While the haggling between king and ministry was in progress the commission of seventeen was engaged in perfecting a colonial law. At an important meeting of the commission on March 25 the main question of annexation was carried by ten votes to two, a colonial law was approved by eleven votes to one, and it was decided, ten to four, to recommend that the Colonial Council be composed of eight members named by the king and six by parliament. The Liberals and Socialists carried on an energetic campaign in April against annexation under these terms, and urged the Chamber to adopt a proposal for a referendum. M. Cooreman, deputy for Ghent, succeeded M. Schollaert as president of the Chamber in January.—In **Portugal** Premier Franco pursued his policy of repression and government by decree throughout November, December and January, forbidding meetings for the purpose of political agitation, muzzling the press, applying to all political offences the procedure governing anarchist crimes, and appointing administrative commissions to take the place of the councils-general. These decrees aroused opposition in circles other than Republican, the cardinal patriarch of Lisbon, Mgr. Netto, resigning in November on account of his hostility to Sr. Franco.

At length on February 1, the very day of the publication of a decree giving the police court power to expel from the kingdom any person found guilty of threatening the security of the state or of disturbing social order, assassins attacked the royal family, who were driving through the streets of Lisbon on their return from Villa Viçosa, and killed King Carlos and the crown prince and slightly wounded the duke of Beja, the king's second son. The cabinet promptly tendered its resignation, and Sr. Franco left Portugal. The country remained comparatively calm, the assassination being disavowed both by the pretender and by the Republicans, although the latter blamed the reactionary dictatorship. The eighteen-year-old duke of Beja was proclaimed king as Manuel II, and after consultation with the party leaders and Queen Amelia entrusted the formation of a coalition cabinet which should represent all the Monarchists to Vice-Admiral Ferreira do Amaral. The new government announced at once that elections for the Cortes would be held early in April, and that there would be no further dictatorship. The measures for controlling the press and for providing summary procedure in political offences were annulled, and a number of political prisoners were released. The elections on April 5 were peaceful and resulted in a sweeping ministerial victory.—Negotiations were begun in January looking toward the establishment of a Portuguese line of steamers trading with Brazil.—The **Spanish** Cortes adopted a navy reorganization bill in December. A bill was introduced in January empowering the government to suppress anarchist newspapers, close anarchist clubs and expel the propagators of anarchistic theories. King Alphonso, despite the protests of his cabinet, visited Barcelona in March and received a hearty welcome.—King Oscar II of **Sweden** died on December 8 in his seventy-ninth year. Gustaf V, his successor, declined a coronation ceremony as being "unnecessary and not in accordance with the spirit of the age." The Swedish budget, which was presented at the opening session of the Riksdag on January 16, balanced at about \$60,000,000. The Riksdag on March 4 ratified an agreement with Germany establishing direct railway transport between the two countries by a combined service of powerful ferry-boats between Trelleborg and Sassnitz.—M. Michelsen, premier of **Norway**, retired on November 1 on account of ill health, and was succeeded by M. Løvland. The Storthing was opened by King Haakon on January 13, and on the 18th unanimously approved the Norwegian Integrity Treaty (see p. 353). The ministry was defeated on an appropriation bill in March, and M. Knudsen formed a new Radical cabinet.—The **Danish** Chambers passed a franchise bill in April, by which all taxpayers, male and female, over twenty-five years of age and all married women whose husbands are taxpayers are entitled to vote in all communal elections.—The **Dutch** cabinet submitted measures in March for the amendment of laws relating to public morals, for the protection of workers and other social legislation, and abandoned an earlier proposal for the revision of the constitution.—The Federal Legislature of **Switzerland** directed in December the immediate

construction of the second Simplon tunnel.—The deplorable state of affairs in **Macedonia** continues to attract the attention of the powers (see p. 354). Frequent outrages were reported from the vilayet of Kossovo, and on January 8 a Greek band under the chief Pavlos burned alive some thirty peasants, including women and children, at the village of Dragosh near Monastir.—The **Roumanian** Parliament, which met on November 28, passed important agrarian legislation, authorizing the creation of communal pastures, the fixing by local boards of the minimum prices for labor and the maximum rent for peasant land, the establishment of an institute of credit to enable the peasants to buy land, a state monopoly for the sale of alcohol, the reform of rural justice, the transmission of peasant land by inheritance, the establishment of a separate department of agriculture, the reorganization of the gendarmerie, and compensation to farmers for damages incurred during the agrarian disorders (see RECORD of June, 1907, p. 382).—The **Servian** cabinet prorogued the Skupshtina in November because it had a majority of only nine votes.—A plot against the reigning family in **Montenegro** by 150 members of the Greater Servian party was unearthed in November and severely punished.—M. Malinoff, the leader of the Democratic party, became premier of **Bulgaria** in January. Prince Ferdinand married Princess Eleonore, daughter of Prince Henry IV of Reuss-Köstritz.

#### VI. ASIA AND AFRICA

**JAPAN.**—A trust was formed in December by the various companies engaged in the emigrant business.—Changes in the Cabinet portfolios of finance and of communications occurred in January. The budget as presented to Parliament on January 21, balanced at about \$300,000,000. A lively campaign was in progress in April in preparation for the general elections of May 15. The opposition was appealing to the anti-military sentiment among the commercial and industrial classes, urging a revision of the budget and of financial methods.—It was reported in April that the anti-Japanese movement in **Korea** was increasing, that revolutionists were active south of Seoul, and that two of the cabinet ministers had resigned.

**CHINA.**—An agitation in Che-kiang province in December was directed by the gentry and the students against further centralization of government and construction of railways. A contract was signed at Peking on January 13 for the building of the Tien-tsin-Yang-tsze main line, German capitalists constructing the section from Tien-tsin to the southern border of Shan-tung, and British thence to Pu-kow on the Yang-tsze opposite Nanking. The work is to be done by European engineers, but the control is vested in the Chinese government. The Shanghai-Nanking railway, 103 miles in length, was completed in April.—A decree was issued in February providing for equality in the courts between Manchus and Chinese. New press regulations issued about the same time make it an offence recklessly to criticize the government or to publish articles endangering peace or morals, and prescribe that the editor of every paper must be a Chinaman.

—The government in January engaged Danish engineers to extend the Chinese telegraph system into Tibet. The first Tibetan newspaper was published at Lhasa in March. (For Manchurian affairs, see p. 356.)

**PERSIA.**—Parliament on November 10 passed the budget and fixed the civil list at \$500,000 a year. On October 26 it temporarily ended the cabinet crisis (see last RECORD, p. 775) by recognizing the ministry of the Nationalist leader, Nasir-el-Mulk. The clerical leaders succeeded in defeating a measure which aimed at the introduction of secular law throughout the country and the maintenance of the religious law of Islam solely for ceremonial purposes and in purely religious cases. On December 15 Nasir-el-Mulk resigned, because of the shah's refusal to grant his demand for the expulsion of the reactionary court clique. He was promptly arrested. Parliament protested and appealed to the powers. Through the efforts of the foreign ministers, the shah yielded, released the ex-premier, and agreed to expel the court reactionaries, to place all troops under the responsible ministry of war and to employ Russian officers to instruct but not to command Persian troops. A new cabinet was formed on December 19 by Nizam-es-Sultaneh, former governor of Ispahan. Parliament agreed in return for these concessions to suppress several newspapers and to increase the shah's civil list by \$150,000.—The government in January chose a French adviser to assist in the work of financial reform.

**EGYPT.**—The two sections of the Nationalist party, the extremists led by Mustapha Kamel Pasha and the moderates or "Party of Constitutional Reform" under Sheikh Ali Yusef, issued programs in November, both of which included the substitution of Egyptian for British officials, the grant of parliamentary institutions and the expenditure of large sums for education; but while the former called for the instant evacuation of Egypt by the British, the latter deprecated any such extreme demand. The People's party (see last RECORD, p. 776) seems to be moderately British in sympathy; the Coptic community, decidedly so. Mustapha Kamel Pasha died on February 10, and was succeeded in the leadership of his party by Ahmed Farid. The election of Sheikh Ali Yusef to the Legislative Council from Cairo was annulled by the native court of appeal in February on the ground of moral unfitness.—A new pass into the harbor of Alexandria, permitting the entrance of the largest vessels, was formally opened on December 30.

**ABYSSINIA.**—Emperor Menelek decreed in November the establishment of a cabinet on European lines, with portfolios of justice, finance, commerce, war and foreign affairs.

C. A. BEARD,  
C. H. HAYES.

# POLITICAL SCIENCE

## QUARTERLY

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### THE CHIEF QUESTIONS OF PRESENT AMERICAN POLITICS.

**W**E are now on the eve of a great conflict, if not a revolution; and it behooves us to pause a moment and survey carefully the situation. It is one of the chief misfortunes of our American politics that we almost never deal with things under a direct issue. Our politicians understand to perfection the trick of sidetracking. It appears to me that the moment has now arrived when such manipulation will no longer answer—the moment when the people, under the lead of independent thinkers, must take things in hand and refuse to be longer misled or deluded. What we believe and what we would realize must be clearly thought out and presented. This is the necessary first step to success.

What then lies directly before us in the political and economic world to which we can give the precise form of questions? First let us consider our foreign relations and the general international situation. The world is now in ferment, chiefly because three great modern states, Germany, the United States and Japan, have attained internal unity and have appeared upon the stage of world politics, and because between the first two and the last named there obtains an apparent difference of opinion in regard to the fate of China and middle Asia. I do not consider the question of the immigration of the Japanese into the United States or Canada or South America as the real Asiatic question. It is possible that the immigration question may be so clumsily handled as to become the issue under which the real Asiatic question shall be solved; but we must distinguish

clearly in thought between the two questions and do our utmost to prevent their being practically confounded. The real Asiatic question is this, namely, whether China and middle Asia shall attain their *éclaircissement*, their modern civilization, under the rule of Japan or of England or of Russia, or of all three by partition, or whether they shall work out this problem for themselves under the influence of active trade and intercourse with all the civilized nations of the earth. The interests of the United States and of Germany require most decidedly the latter alternative. To the political and economic interests of the United States it is absolutely indispensable that the independence of China shall be preserved and that the gates of entrance to China and middle Asia shall be opened and kept wide open to the commerce and intercourse of the whole civilized world. From a purely materialistic point of view, the export of the products of the industry of the United States to China and middle Asia would, under the policy of the open door, in a short time defray the cost of construction of the greatest navy of the world a dozen times over. Between six and seven hundred millions of people capable of civilization, inhabiting a territory of six to seven millions of square miles, are to be brought into touch with modern culture. The vast financial profit for those nations which shall mediate this contact, which shall furnish the material for the building of the ships, the railroads, the telegraph and telephone lines, the agricultural and industrial machinery and the industrial products of the Occident generally, is almost incalculable. That the United States shall have a fair share of this trade and commerce is quite indispensable to our economic future.

But there is a higher point of view from which to regard the subject, the point of view of our world duty. If we survey the history and present situation of the world we are bound to reach the conclusion that the Asiatic states must acquire modern political civilization either through the supremacy over them of some state with modern civilization or through active intercourse and commerce with the modern civilized nations of the world. Substantially the whole of Africa has been subjected to the rule of the European states; the same is true of half or more

than half of Asia; and the great all-comprehending question of to-day for China and middle Asia is whether it shall be the *rule* or the *influence* of foreign states under which they shall attain their modern awakening. It must be the one or the other. There is no third way. There is no question that American opinion will stand for the latter alternative. It is our way to allow to every people the fullest opportunity to redeem itself under the influence of world commerce and world intercourse, and only after this has been fully tried and has proved impossible do we agree to the establishment of a foreign rule over any people. That China has the capacity to work out its modern civilization under the influence of world commerce and intercourse is so probable that it must be presumed to be true. From the American point of view, the policy of the world in respect to China should be to maintain the independence of China for China's own sake, on the condition, of course, that China shall keep her doors wide open impartially to the commerce and intercourse of all civilized nations. I go a step further and claim that it is our own particular and especial duty to insist upon the maintenance of such a world policy. Our geographical position makes us the chief bearers of the world's civilization in the Pacific, and the world significance of our possession of the Philippine Islands is that it gives us a proper and an advantageous base of operations for the discharge of this great duty. Sound material interests and world duty thus compel us to dedicate our best powers to the solution of this great question.

But can we succeed in accomplishing this great work alone? Do we not need for this a powerful and trustworthy friend on the Atlantic, to maintain our security on this side?

This last question forces us to consider the present situation of the world and the present condition of world politics. We may affirm without fear of successful contradiction that modern political civilization has radiated from Europe into the other parts of the world. Asia is the original source and home of the religions of the world; Europe, on the other hand, of the great states of the world. The states of Asia have therefore naturally been theocracies and theocratic despotisms. This is



indeed a necessary first form in the development of the state; but it is a form of a low order, and unless it be overcome by a successful advance to a higher form it leads inevitably to decline and decay. With the exception of Japan, this has been the fate of the Asiatic states. Africa, the Americas and Australia, on the other hand, have been rescued and redeemed by European colonization and rule. This great work of political civilization, both as to original development and spread throughout the world, has been accomplished by the Romanic and Teutonic peoples of Europe. In the sixteenth and seventeenth centuries the Spaniards and the Portuguese, the French and Italians played the chief rôle, but in the nineteenth they have been compelled to yield the scepter of the world to the Teutons.

In strictest fact the Teutons have, for the last fifteen hundred years, been the great state-builders of the world. They have created England, Germany, Sweden, Norway, Denmark, the Netherlands, Austria, Switzerland and the United States. They founded in Spain the Visigothic and Suevic states and drove the Arabs out of Europe. They created in Gaul the Frankish state, which preserved all western Europe from dissolution. They organized in Italy the Lombard state, which lives to-day in the rule of the house of Savoy and has at last established the political unity of Italy. They protected middle Europe against the flood of the Slavonic invasion, which in the middle ages threatened to inundate it, and they have set firm the Hohenzollern outposts of East Prussia and Rumania to hold such movements in the future in permanent check. They number now one hundred and fifty millions of the four hundred millions of Europe's inhabitants; they increase by one and a half millions of souls annually through the excess of births over deaths; and one-third of the entire population of the world is now subject to their political sovereignty. Alongside of them, or rather over against them, stand the Slavonians, who number also about one hundred and fifty millions of souls but are still politically barbaric or at least undeveloped, and the Romanic races, who number about one hundred millions of souls but multiply, as a whole, in an ever decreasing ratio and show themselves with ever increasing clearness to be races of the past.

There can thus be no doubt that we Americans must seek our political friendships chiefly among the Teutonic powers, and that among these Germany and England stand at the head. A complete and sincere understanding between Germany, England and the United States in regard to the Asiatic question and the world policy in general is the most desirable situation which can be imagined. How do the relations between the United States and England, on the one side, and the United States and Germany, on the other, at present stand? Apparently friendly relations exist in both instances, but when we go beneath the surface of things and contemplate the movements and purposes which are there in play, we find at least uncertainties, which must be weighed and taken into the calculation.

In our relation to England four facts come into view which are disquieting. First, we observe that England is still twice over at least the greatest sea power of the world and, from the point of view of international law, still the most illiberal. It is difficult for England to forget that she once held the sovereignty of the seas, and it is more difficult for her to forgive Germany for having become, in the last quarter of a century, so strong a competitor thereon as to have virtually broken the English maritime monopoly. Once at least in our own history we have been compelled to feel, in the most painful manner, with what utter lack of consideration England can make use of an apparent opportunity to suppress commercial rivalry on the seas. Our own maritime interests have scarcely yet recovered from the heavy blows which they suffered between 1861 and 1865 through English connivance. In the second place, we observe that England is the greatest colonial power in Asia. Her rule in Asia extends over a territory which measures more than two millions of square miles and is inhabited by more than three hundred and fifty millions of people. The policy of England appears also inclined to a further extension of her rule over middle Asia. In the third place, we observe that England is in alliance with Japan. Exactly what the Japanese policy in middle Asia is, and how far England has obligated herself to go, or would go, in support of this policy, we do not know. Neither do we fully know what the approach between England

and Russia signifies. Taken together, these things may possibly point to the partition of all Asia between these three great powers; and when we cast the horoscope of the future we must take into account such possibilities as have already appeared above the horizon. In the fourth place, we now know that another rapidly and powerfully developing nation divides the North American continent with us and has already become so strong and self-conscious that it can no longer be ignored. It is happily true that it is also substantially a Teutonic nation, and that ethnical and moral harmonies exist between it and us which make for peace and friendship. For a long time we thought that these harmonies and the geographical situation of our northern neighbor would lead finally to her incorporation in our Union; but during the last twenty-five years this prospect has gradually faded away, as the consciousness on the part of the inhabitants of this widely extended region of their natural independence has become distinct and as their national consolidation has become strong. They are now already a very respectable and considerable state body; they have developed an excellently organized government, and they have founded many admirable institutions. In twenty-five years this new nation will number twenty-five millions of souls and will then be, in many respects, no mean competitor of the United States. And behind this new and powerful community stands the mighty British Empire again, ready and able, with its great navy, to defend the interests of its offspring. I hope most sincerely that we shall always live in peace and harmony with our northern neighbor. I have great respect for her and nothing but the best of wishes for her welfare; but I should be a poor student of history and politics if I did not recognize the possibility of friction with her, and through her with the great empire of which she is a part.

The relation between the United States and the other great Teutonic empire is quite different, seen from the point of view of the world situation. Upon no spot of the earth's surface does there appear any probability or even possibility of a conflict arising between them, in the great work of extending the world's civilization. Germany's chief mission, in this respect,

is the continual rejuvenation of the peoples of continental Europe and their preservation against the anarchistic tendencies of the Slavonic races, on the one side, and the tendencies to decadence of the Romanic races, on the other. As I have already indicated, the Teutons have, for the last fifteen hundred years, pursued this mission. Ethnologically, indeed, Germany is not the entire Teutonic world in continental Europe; but the German Empire is the great political representative of the continental Teutons and the moving power in the spread of Teutonism to the other parts of Europe. Continually and irresistibly, this great ethnic force penetrates in all directions, especially towards the southeast, and transforms the lands and peoples with which it comes into contact after its own image. Germany is the great ever overflowing reservoir of ethnic force, which sends its enlivening and fructifying streams in every direction, and as the old races decline and die out replaces them with men of Teutonic blood and Teutonic culture. And then, in the second place, the colonial interests of Germany lie in Africa, where the German Empire possesses a territory four times the size of its European home. The administration of its African possessions will fully occupy the colonial activity of the home government for a century to come. In the pursuit of this mission, therefore, Germany cannot come into conflict or contact with the United States, since the United States plays no rôle in Africa, nor wishes to do so. And when, in the third place, we contemplate the Asiatic policy of the German Empire, we find that the world views and the world purposes of Germany and of the United States go hand in hand; that is, they require that China and middle Asia shall be redeemed, not through the rule over them of Japan or of England or of Russia, nor through a partition of them between the three, but through their own independent efforts and activities, under the influence of the freest commerce and intercourse with all the civilized nations of the world.

When now we bring all of these considerations together and survey them in comprehensive thought, the correct course of our foreign policy reveals itself. Its chief purpose is the maintenance of the independence of China, and the opening-up of

China and middle Asia to the commerce and intercourse of the civilized world ; and the most ready means for the attainment of these ends are close friendship with the German Empire, a fixed understanding with the German Empire and with China, and the powerful development of our navy and merchant marine. None of this nor all of this signifies war or militarism. It signifies peace, active commerce and friendly intercourse, unbounded prosperity and world civilization. If the United States should, through such measures, make known her fixed foreign policy to the world, there is no power in the world which would or could resist or oppose it. All the possible dangers which might otherwise proceed from the side of England would immediately disappear. The British Empire would find itself compelled to accede to our policy and to give up the senseless, unnatural and highly dangerous attempt—dangerous to the peace and progress of the whole world—to isolate Germany. For a long time I have thought and taught that the freedom, progress and civilization of the world depended much more upon the friendly co-operation of Germany, England and the United States than upon all other forces combined ; but I have at length become conscious of a feeling, which is so decided as to amount to a conviction, that this international Teutonic coöperation can be realized only when England becomes fully persuaded that the United States will insist upon grasping the hand of Germany at the same time and with the same sincere cordiality as the hand of England. I am firmly of the opinion that the now existing friendly feeling between Germany and the United States has already exercised a most favorable influence upon the relations between England and Germany. I think that there was a moment a few years ago when, except for this, England would have experienced a much stronger temptation to attack Germany than she did. We in the United States cannot complacently regard unfriendly relations between Germany and England, because, if they should lead to war, they would produce a world convulsion which would greatly injure our own interests and would threaten our own peace. The ultimate results of such a war would be, most probably, the destruction of France and an alliance of the Continental powers this side of Russia

against England, the destruction of the German navy and of the German commercial competition with England on the sea, the reëstablishment of England's maritime monopoly and the partition of Asia between England, Russia and Japan. We dare not allow any such results to come to pass, any such world situation to be realized. And we can save ourselves and the world from them by following the course of foreign policy which I have indicated, and, so far as I can see, in no other way.

Let us now turn to the consideration of the chief questions of our internal politics. First, the old question of States' rights and national consolidation presents itself. I had thought that this question was obsolete, that no man in this broad land of ours was quite so backward in his opinions as to think for a single moment that the present commercial and social conditions in these United States could endure for a single day the particularistic politics of the year 1800. But it seems that this question still lingers with us, and that it still offers one of the chief points of distinction between the creeds of the two great parties. I can understand how the men of the period between 1783 and 1860 could follow a particularistic policy. When the inhabited parts of the States of the Union were widely separated from one another, and when intercourse between them was rare, slow and difficult, it was explicable that a man could plant his foot upon his own doorstep and proclaim that spot to be the center of the earth. Also when slave property was secure only under the protection of the several States, which recognized its existence, it was comprehensible that those who had a pecuniary interest in the maintenance of such property should seek to magnify the powers of the States and to reduce the powers of the central government to a minimum. But now that slavery has been abolished and the populations of the several States have so filled out their entire geographical boundaries that one cannot perceive when one passes the imaginary lines which separate them, and commerce and intercourse between the inhabitants of different States have become, in many respects, more active and general than that between the inhabitants of the same State, it is quite astonishing that this old doctrine

should come to life again. It is, in my opinion, a real will-o'-the-wisp, and will lead us, should we pursue it, into quicksands and marshes which have no bottom. By this I do not at all mean that there is not a natural sphere of local self-government. The question is not that of a consolidation in principle of all governmental power in the hands of the central government, but of a liberal interpretation of the powers already granted by the constitution to the central government, so that the law shall be made to harmonize with the already existing conditions in the world of fact. There now exists a disharmony between law and fact. The conditions in the world of fact have become much more completely centralized than is recognized by the law; and every American jurist knows that, but for the fact that the legal systems of the several States of the Union are based on the English common law, and that this law has been developed chiefly by judicial decisions, we should now be suffering under an intolerable condition of legal confusion and contradiction, from which we could be rescued only by revolution. So long as the judicial office in the States was held during good behavior, this harmony in the law of the different States was preserved; but, now that the judges in most of the States are elected and serve for a short term of years, it has become seriously impaired, and we find ourselves standing before the alternative of amending the constitution so as to increase the powers of the central government or of giving, through judicial decisions, such a liberal interpretation to the powers already conferred by the constitution on the central government as to bring the law into harmony with the conditions of fact. The central government should regulate and control all commerce and intercourse, except only such incidents thereto as naturally belong to the local police administration. It should create the code of commercial law, fix the law of marriage and divorce and establish the general principles of the criminal law; and it should ordain and control, and in large part administer, the postal and telegraphic systems and the systems of forestry and irrigation. At least so much, if not more, belongs to its natural domain. I make these assertions, not from the standpoint of theoretical reasoning, but from that of the already ex-

isting conditions of fact. I would only bring the law into harmony with this condition of fact, because I know that the law cannot change the fact and dare not leave the fact unsupported, without producing a convulsion which will bring deep injury to the country. It is therefore quite manifest that we must do all we can by means of a liberal interpretation of the constitution as it is. Even though it were less difficult to bring about a constitutional amendment, it is still better to put a liberal construction upon what we already have than to be forever on the strain of creating something new. Too frequent constitutional amendment undermines the necessary respect for the organic law, and this must be avoided. From this point of view, perhaps, our very difficult process of amendment has its justification. Perhaps we have made it too difficult. Perhaps we thereby throw too much responsibility upon the courts and compel the courts, consequently, to overstep at times the boundary between law and politics. That is also a danger which we must endeavor to our utmost to avoid. It is indeed a narrow way which we tread, but one thing is very clear, namely, that we should recognize the difficult position of the courts and should allow no faultfinding disposition to prevail in regard to them.

This consideration leads us to the second great and all important question of our internal politics, namely, the position of the courts in our political system. Nothing has aroused in my mind such grave apprehensions concerning the future of the great Republic as the now apparent inclination among certain classes of the people to disparage the courts and to undermine their position as the highest interpreters and defenders of the constitutional rights and immunities of the individual. It was, in my opinion, the most intelligent and judicious work of the fathers of the constitution that they placed the courts above the ordinary legislative power as well as above the executive power in construing and protecting civil liberty, and it is also my opinion that the conditions of the present day require, even more decidedly than those of 1787 or of any subsequent period, the maintenance of this position of the courts. In fact I do not



comprehend how a great republic with any other relation of its governmental departments can permanently exist. We must not forget that with our system of party politics and party rule the people do not at all regularly govern themselves either nationally or locally. Only when the people form or adopt a constitution or a constitutional amendment do they exercise the law-making power over themselves, and then only approximately. All other governmental acts, both legislative and executive, are the work of a relatively small number of professional politicians, many of whom are continually working for the advantage of certain private interests and under their influence. The self-deception of our people in regard to this matter would be humorous, were it not so serious. But even though the people should be clearly conscious of the situation, it is not at all certain that they could help themselves. Theoretically at least, the root of the evil lies in the fact that we elect so many legislative members and administrative and judicial officers, and that the professional politicians and the party machinery are indispensably necessary in order to cope with the situation. We are compelled to accommodate ourselves to the system of the party machines or find ourselves before the alternative of party demoralization or the radical reduction of the number of elective offices and positions. It will be a long time, if ever, before the American people will resolve to adopt either of these alternatives, to the exclusion, total or partial, of the other. The American people are fanatically devoted both to the principle of party loyalty and to the system of election of all holders of public power. They consider both as the chief pillars of the republican form of government. We must concede that this is one of those half-truths which arouse the enthusiasm of the masses. If the people really deliberate in their minds over this question at all, they generally think that the party machines and party leadership can be so reformed as to be purified from most of their errors. No people in the world has ever yet succeeded in accomplishing these things, with any considerable degree of satisfaction. That the American people, a people so largely devoted to private interests, will succeed better with them is, at least, extremely doubtful. In my judgment the situation is as

likely to become worse as better, as our population increases and becomes even more devoted to materialistic interests and views. As a private man and as a teacher of political science, I see our salvation only in the principles which incorporate the fundamental civil rights and immunities of the individual in the constitution, confide their interpretation and protection to the courts, free the judicial office from all political attributes and incidents and place it above all political and party strife. We may with comparative security allow the politicians to work their will in regard to purely political matters; but when the fundamental civil rights and immunities of the individual are made counters in the political game, then do we become subject to the most grinding and degrading tyranny which the wit of man can devise, namely, the tyranny of a handful of professional, sometimes notoriously corrupt, politicians, who claim to represent the majority party but really represent nothing but a coalition of selfish interests.

To our great good-fortune the national constitution already contains the guaranty of these fundamental rights and immunities and has created the necessary organs and forces for their maintenance and protection. According to its provisions neither the central government nor a State of the Union may pass any bill of attainder or any *ex post facto* law, or make treason anything other than the waging of war against the United States or a State of the Union, or make slavery or involuntary servitude lawful or allow it to exist, or take private property for any but public purposes or without just compensation, or deprive any person of life, liberty or property without due process of law, or deprive any person of the equal protection of the laws, or prohibit the peaceable assembly of the people for the purpose of petitioning the general government for redress of grievances. Other provisions of the great instrument ordain that the judicial power of the United States shall be vested in one supreme court and such inferior courts as Congress may from time to time ordain and establish, that the judicial term shall be during good behavior, that the judges shall receive an undiminishable salary, and that the judicial power of the United States shall extend to all cases arising under the constitution, laws and

treaties of the United States, *etc.* There is thus no doubt that the above-mentioned rights and immunities must be finally interpreted by the constitutionally independent courts of the United States—that is, in all questions which may be, in proper form, brought before them—and that the judgments of the courts will set aside and render null and void all laws, treaties or executive orders of every nature and from every source which conflict with the judicial interpretation of these constitutional rights and immunities of the individual. These judgments themselves can indeed be overcome, but only by means of a constitutional amendment.

So much is fixed principle of our jurisprudence and our public law, and neither Congress nor the executive nor the States of the Union have the slightest foundation to stand upon if they or either of them should dispute it. But there are other relations between the judiciary and the political branches of the government, which are not so distinctly fixed by constitutional provision, and which may be so manipulated by Congress and the executive as to bring the courts into a certain dependence upon them. For example, Congress, that is, the national legislative power, has authority to determine the number of members of which the Supreme Court shall consist; to create the inferior courts and to determine the number of members of which each of these shall consist; to fix the salaries of judges and to appropriate the money for their payment; to regulate the appeal of cases from the inferior courts to the Supreme Court and to make exceptions to the same. Further, the president and the Senate have authority, in agreement with each other, to appoint the judges; and finally, upon impeachment by the House of Representatives of Congress, the Senate may by a two-thirds vote remove the judges from office on conviction of treason, bribery and other high crimes and misdemeanors.

It cannot be truthfully affirmed that the president and Senate have ever misused their great power of appointing the judges, nor that the houses of Congress have misused their power of impeaching and removing the judges. Twice in our history it has been claimed, with some show of truth, that Congress has

exploited for party purposes its power of creating the inferior courts and fixing the number of the judges in all the courts. The first instance was at the beginning of the last century, the second some forty years ago. Even if the misuse of power be conceded in both instances, it remains a rare occurrence. But Congress can with perfect correctness be accused of a constant niggardliness in the creation of the necessary courts and judgeships to discharge promptly the judicial business of the nation, and there is not the slightest doubt in my mind that Congress has made an exaggerated use of its power to regulate appeals of cases from the lower to the higher courts, a use so exaggerated as to amount to a real usurpation. Congress has not only asserted the power to distribute the judicial business of the United States between the several classes of courts but also to determine *in what the judicial power of the United States shall consist*. The provision of the constitution determinative of this subject provides that the judicial power of the United States shall be vested in one supreme court and such inferior courts as Congress may from time to time ordain and establish, but does not at all vest in Congress the power to determine in what the judicial power of the United States consists. This latter is, therefore, purely a constitutional question, and the final determination of such questions is, as we all well know, the highest and most important function of the Supreme Court of the United States itself. For example, propositions have appeared in Congress for withdrawing from the courts the power to issue injunctions in certain cases and for modifying and limiting this power in other cases. In my opinion, it would have been a clear usurpation to have enacted any such propositions into law. The question whether the national courts have the power to issue injunctions and upon what occasions is simply the question whether the function is contained in the judicial power of the United States. If it is, then it is already vested in the courts of the United States by the constitution, and the Congress has no constitutional authority to alter it one jot or tittle. And whether it is contained therein or not is no question which the Congress may finally determine, but one which the Supreme Court itself must finally determine, as the ultimate interpreter

of the constitution. It is of the very highest importance to the maintenance of our system of individual rights and immunities and of our system of limited constitutional government that we correctly understand this question, and that we do not allow ourselves to be led astray by the senseless clamor against "government by injunction," as the empty phrase goes. As our society and our business relations have now formed and adjusted themselves, we are compelled to prevent the wholesale injury and destruction of property either by the judicial power through injunction or by military power. We can take our choice between the peaceable judicial process or militarism. There is no third way. If anybody thinks that a genuine American prefers anarchy to militarism, he makes, in my opinion, a prodigious mistake. I am myself an old American; my fathers have lived in this land since 1638; and I believe that I represent the American spirit correctly when I say that we prefer the rule of the saber to the rule of the mob. It is quite true that we Americans are no friends of too much government, but we will obtain at every cost the security of life and property.

I have furthermore no sympathy with the assertion that through the employment of the writ of injunction the enjoined party is deprived of his constitutional rights to a trial by jury. I consider that assertion to be the crudest kind of sophistry. In no system of jurisprudence which the world has ever yet invented has any person been given jury protection against judicial prosecution for contempt of a judicial order. When a person disregards the order of a court against the injury or destruction of property, he has committed two offences, not one simply, the offence of contempt of court and the offense of trespass. Only in prosecutions for this latter offense has the trial by jury been accorded, and that remains to the offender, in such a case, after he shall have satisfied his sentence for contempt. An entirely new right is also claimed when the demand is made that the question whether a contempt has or has not been committed must be determined by a jury before punishment therefor can be inflicted. That has never anywhere been established judicial practice, and such a practice would destroy

the power of the courts. Disobedience to judicial orders is one of the most serious crimes that can be committed. It is even more dangerous to the existence of the state than high treason itself. It is simply anarchy. There is only one sound view upon this subject, namely, that the court must itself decide whether its order has been disobeyed or not, and that there can be no appeal from its decision. In the management of all human affairs we come finally to the point where we must trust the ultimate decision to some constituted organ. The only question that remains is as to the organ which shall possess this ultimate authority. We, the people of these United States, have, by a perfectly clear and well understood provision of our constitutional law, entrusted this power, in all cases arising under the constitution, laws and treaties of the United States, to the courts of the Union, and neither Congress nor the executive nor both together have the slightest constitutional power to modify or limit this power in any respect whatsoever. That can be done only by the sovereign people, through constitutional amendment. And if the people should undertake so to effect it, it would be the most striking possible proof that the people had unlearned the fundamental principles of constitutional rights and constitutional limitations on governmental power and were on the point of reverting to the barbarism of self-help or the tyranny of militarism.

There is, furthermore, no basis for the assertion that the present use of the injunction is a novelty in judicial practice. The courts have always used this means of preventing the destruction of or injury to property when it was apparent that satisfactory compensation for the damage could not probably be obtained. Perhaps it is true that the framers of the constitution did not divine that this means would be employed on such a grand scale. Neither did they foresee that the occasions upon which it should be employed would become so numerous and so important. It is nothing more nor less than the old story that the constitutional powers of the courts, as those of the other branches of the government, must be always construed from the point of view of existing conditions. We may, indeed, as free citizens of the Republic, criticise, in special cases, the de-

cisions of the courts as well as legislative acts and executive orders, but if we would preserve the life of the great Republic we must hold fast to the historical and constitutional relation between the judiciary and the political branches of the government, and defend the judicial power of the United States, as interpreted by the courts themselves, against all encroachments either by Congress, the executive or the States of the Union. This great principle is, next to the constitution itself, of which it is, indeed, the most important part, the chief support of our civil liberty, and without it the provisions of the constitution in reference to our individual rights and immunities would be without any practical value. It is a false democracy which indulges itself in abuse of the courts—a democracy which is on the point of degenerating into Cæsarism.

The third great question of our internal politics to-day is the question of the so-called "trusts," that is, of the great corporations, which either have a strong public side or threaten to monopolize some branch of trade. That the government shall take an attitude in respect to them is made necessary by the principles that the government must prevent them from usurping anything in the nature of a governmental power and must protect the civil rights and immunities of the individual against them. It is also true that these corporations themselves have constitutional and legal rights and immunities and that it is the duty of the government to protect and uphold these also.

The history of the power and the position of the corporations in the United States is briefly as follows. It was in the beginning a fundamental principle of American political science that government should undertake nothing which could be better done by individuals or private combinations of individuals, and that individuals or private combinations of individuals could do everything more advantageously than government except protect the country against foreign aggression, maintain the public peace and administer justice. A second original principle of American political science was that when, through practical experience, it became manifest that the powers of government should be expanded, the several States should

take the first step. And a third principle was that government should have no source of income except the lawful taxes and imposts collected from the people. When now the building of factories and railroads began, the whole situation was most favorable to private enterprise in both directions. The people wanted them, and neither the central government nor the States of the Union were in a position to provide them. They had not, according to the original principles of American polity, the power, and they had not, in the existing conditions of governmental revenue, the means. They could however, confer upon private undertakings in both spheres many advantages. For example, the central government could so fashion the system of duties upon imports as to give protection to domestic manufacturers against foreign competition and could make gift of great stretches of the public domain to the railway corporations; and the States of the Union, from which the corporations received their charters and concessions, could be very generous, if they so pleased, with the privileges conferred. At the outset all this appeared promotive of the public welfare. It undoubtedly was so, momentarily at least. But the time soon came when the weak points in this system began to appear. First, the protective system appeared to the people of the South to give an unfair advantage to the people of the North, and in the great struggle of 1832-33 between South Carolina and the Union over this question it was for a period of thirty years set aside, only to be restored again by the victorious North as a part of its victory over the slave power. Not only was the system restored, but it was advanced to a position of power over the government itself, as the chief source of financial contribution to the support of the reigning party organization—a position which enables it to increase indefinitely its demands and to prevent any reform of its privileges on the basis of sound economic principle. The politicians, even the demagogues among them, do not dare to grapple with it, because they fear to cause thereby the drying-up of the sources of party contributions.

Later, naturally, the consciousness of the people awoke to the fact that the railway corporations were abusing the great priv-



ileges conferred by government upon them. They not only charged too high rates, but they favored some persons over others and some places over others. They gave the great shippers rebates and placed them thus in a position to undersell and ruin the lesser men. They increased their capital stock without any corresponding increase in the value of their property, and they created and sold to the public their obligations in a reckless manner. These things are all well known and it is not necessary to dwell further upon them. First the State legislatures and then at length Congress undertook to meet these evils. Louder and louder have the complaints of the people become against them, and the legislation both of the Congress and of the States has become more and more radical in satisfaction of these complaints, until at last the governmental attack on predatory wealth has become, very nearly at least, an attack on the principle of private property itself. We have thus at last arrived at the point where we must call a halt and put the whole situation to the test of an intelligent and an unprejudiced consideration.

First, then, no sane mind can entertain any doubt that our modern business life and prosperity must be mediated and handled chiefly by corporations. The corporations have, therefore, their justification, their *raison d'être*. To define properly their functions, their rights and their privileges, and to protect and maintain them in the just exercise of the same, is one of our most pressing duties. In order to accomplish this successfully we must, at the outset, fix in mind the concept of the modern corporation, especially the modern railway corporation. Originally such a corporation was the totality of the stockholders. Originally, a relatively small number of men, living in the same place or neighborhood, or at least known to each other personally, formed a real community of stockholders, obtained a charter from their State legislature, built a few miles of railroad, elected their directors and officers in full assembly and held them under strict control. They came together often and regularly, and after full discussion and by full vote they fixed their policy and adopted their regulations. The community of the stockholders was thus the

corporation, the real responsible body, and the directors and officers were in reality their agents. But all that is now greatly and radically changed. Through the mediation of the stock exchanges these enterprises have developed in the most extended and unexpected manner. The stockholders of corporations have become for the most part strangers to one another. Among them are now to be found widows, orphans, married women, minors, foreigners, educational institutions, churches, charitable institutions, *etc.* There is never a full meeting of stockholders. The most of them vote, if they vote at all, by proxy, and the officers and directors represent them. In fact the president and directors of the corporation have now become the controlling and responsible body, while the stockholders are a mass of disconnected individuals, whose property is under a sort of guardianship of the president and directors. It is a very common thing to hear the president of a corporation speak of "his stockholders." "I have given my stockholders a six percent dividend; what more can they expect?" This sounds boastful, but there is a significant truth contained in it, a truth which we must deeply ponder, if we would develop a sound legislative policy in regard to corporations. It will no longer answer to punish the stockholders for the misdeeds of the corporation, simply because they are not the guilty parties and it is no longer right and just to hold them as such. This only gives to the officers and directors of the corporation better opportunities to plunder the stockholders and will lead finally to the confiscation of the railroads by government. In the whole of legal history nothing more clumsy and unsuccessful can be found than our legislation in regard to corporations. At almost every step we have punished the innocent and furthered the interests of the guilty. If government were in secret collusion with the robbers to plunder the helpless stockholders and bondholders, it could hardly have proceeded much otherwise than it has. And this is all the more surprising since the matter is to an impartial judgment quite simple. Control of all commerce by the central government, precision in the charters of concessions to carrying corporations, a liberal maximum of rates, a fixed minimum of rates which will prevent the

greater corporations from ruining the lesser by underbidding, prohibition of preferences and favoritism and personal responsibility of the officials and directors for the violation of the law—this appears to the academic mind, at least, to be the true line of development, the line which would combine clearness and effectiveness of action with the preservation of both public and private interests and with the just and righteous vindication of the law. I do not think that the stockholders and bondholders of the corporations would have any objections to a system of legislative control developed upon this line. I think they would welcome it. I feel quite sure that objections to it would proceed from the officers and directors of the corporations and from the professional politicians, because it would deprive the former of the opportunity to plunder the stock- and bondholders and escape punishment for their own misdeeds, while the latter would no longer be able to secure party contributions from these managers of the corporations, whose illegal acts they have been accustomed to let pass unnoticed in consideration of such contributions. To sum up the situation in a sentence, it seems to me that we must say that the politicians granted the corporations, at the outset, more than was just and fair, viewed from the standpoint of the public good, partly, at least, in order to be able to secure from their managers contributions to party expenses; that the corporations have exploited their liberal grants in so selfish, sometimes so shameless, a manner that they have at last exposed themselves to a popular revolution; that the people have not yet learned to distinguish between the old conception of a corporation and the new one, based on present conditions, and are inclined still to hold the stock- and bondholders responsible for the acts of the corporations; and that the politicians are quite willing to allow the people to grope about in their ignorance, in order that their old allies, the officers and directors of the corporations, may escape just punishment and may remain in possession of the means, and rest still under the obligation, to continue their contributions to the party treasuries. I have of course no sympathy whatsoever with the officers and directors of corporations who have abused their powers and opportuni-

ties, but I consider the professional politicians still more dangerous enemies to the public welfare and the public morals. And yet we must have professional politicians and extraordinary contributions to party expenses, until we shall have brought about a very great change in our political system and our party practices. So long as we have so many elective offices and positions, and so long as the people will not contribute generally and equally to the party purposes, we must have professional politicians and extraordinary contributions. In other words, we are all responsible for the present state of affairs, and we dare not in justice ascribe the responsibility for it to certain persons or to certain classes of persons and punish them with severity. Each of us must first do his own duty towards the maintenance of the necessary political parties in order that the party managers may have no excuse to solicit extraordinary contributions from those seeking privileges and favors from government. Then, and not till then, can we hope to reform the protective tariff system upon reasonable lines and to deal with it as an economic question; then only can we undertake to correct the errors of our exaggerated elective system in the lower grades of offices; and then only shall we be in a position to visit the violations of the law upon the really guilty and hold them to strict account.

JOHN W. BURGESS.

15Q, 23 (1908)

## THE 'COURTS' VIEW OF INJUNCTION IN LABOR DISPUTES

**T**HE question of the issue of writs of injunction in labor disputes has been for a long time past one of increasing importance. It has within the last months assumed an aspect even more grave, for there are certain forces at work which are tending to make the issue one between classes or, more positively stated, an issue which is helping to array one class against another. The representatives of organized labor have become acrimonious in their denunciation of this use of the writ and energetic in their demands for a modification of the authority of the courts in this direction. On the other hand, while the employers of labor have been less outspoken, they seem to rest in the consciousness that they have the decided advantage of position. "The courts are with us," seems to be their attitude, "let others object who will."

While these two interested parties have been lining up on the question, the more disinterested public has been slowly realizing the situation. During the past year it has been possible to detect in many quarters a slowly forming opinion that perhaps after all the advantage is not equally distributed, that the employer seems to be largely right in his supposition that the courts are with him. The development of this opinion has been materially accelerated by the utterances of President Roosevelt. In March, 1906, the president was quoted as saying to a delegation of the American Federation of Labor: "As for the right of injunction, it is absolutely necessary to have the power lodged in the courts, though, of course, any abuse of the power is strongly to be reprobated." In his message of December, 1907, the president wrote: "Instances of abuse in granting injunctions in labor disputes continue to occur, and the resentment . . . continues to grow. . . . I am constrained to express the belief that for some of [these attacks] there is warrant. The question is becoming more and more one of

prime importance." Yet all through his dealing with the subject the president has been careful to draw the distinction between the dangers of the abuse of the injunction and the advantages of its proper use. "The process of injunction is an essential adjunct of the court's doing its work well, and as preventive measures are always better than remedial the wise use of this process is from every standpoint commendable. But where it is recklessly or unnecessarily used the abuse should be censured." In March, 1908, in a special message, the president urged legislative action; but the leaders of the Republican party in Congress were unable to agree upon the terms of a bill.

Failing to secure action from Congress, the labor leaders have brought the question before other representatives of the American people. During the past summer they have carried their demands to the national party conventions and have made a heroic effort to induce the platform builders to accept their plank *in toto*. Their limited success has pushed the matter into politics to a greater extent than ever before. This effort to make of it a party issue is greatly to be regretted.

There is no longer a doubt of the existence of a popular demand for the limitation of the courts in the exercise of this power to issue injunctions. There is, however, in the public discussion, little opportunity for the courts to speak on the matter. It is therefore only fair that the various expressions of the courts themselves should be considered, and it seems probable that a presentation of their views will contribute to the attainment of a right judgment. These views are found widely distributed throughout the large number of decisions rendered in cases where the issuance of the writ has been the question before the court. The embarrassment has been, from the beginning, to select the clearest and most enlightening statements from the large number that bear upon the point. Those which follow are in no sense exceptional. They proceed from men whose views on the economic and social questions involved doubtless differ widely, and their varying views have beyond question given a direction, or at least a tone and color, to the conclusions reached. While this might have been expected to

lead to some confusion as far as conclusions are concerned, yet such is not the case. Whatever differences of opinion may exist as to personal view, there is a singular unanimity of opinion in the conclusions reached. This comes doubtless in part from the legal viewpoint which all take as a result of professional training and in part from the natural attitude of any branch of government to assume to itself all possible authority. This entire matter may be summed up by anticipating a single brief sentence: "It is too late to doubt the jurisdiction of the court of equity to grant relief. . . . The adjudged cases seem to be all one way."

Before proceeding with the citations it may be well to qualify all of them with the statement that they are written, as legal opinions are always written, with reference to particular circumstances. The circumstances in each case have of course a direct bearing upon the conclusions. It is only in connection with the special circumstances that the general statements are made. But while this is true, it is safe to proceed on the basis that such statements may be taken at their face value. Evidence of this, if any is necessary, is found in the fact that, when in the decision of one case the court cites the words used in the decision of a previous case, it is the form of the general statement that is quoted as expressing the common principle involved in both cases.

It has seemed best, in the interest of clearness to the reader, to present the utterances of the court in something of a systematic order. The various arguments seem to fall naturally into the following arrangement, and in accordance with that arrangement they are discussed in these pages: I. The relation of the injunctive process to constitutional rights, especially to the right of jury trial. II. Considerations regarding the need for the writ: (1) the difficulty in establishing the facts; (2) the legality of the acts when finally established as facts; (3) the distinction between civil cases, criminal cases and cases in equity; (4) the desire to secure order by any means necessary. III. The difficulty of determining to whom the injunction should apply and what acts should be enjoined. IV. The importance of precedents.

## I

It is often contended that the court, by issuing the writ of injunction and summarily punishing those who violate its commands, arbitrarily deprives the persons concerned of their constitutional rights. The right most frequently named in this connection is the right of trial by jury. These objections are frequent indeed, and no one who is at all conversant with the current labor literature can doubt the earnestness and persistence with which they are urged. On this point the courts do not often speak with very great fullness. They apparently assume that their constitutional power to punish those who disobey their injunctions is fully established. Yet in a few cases the arguments before the court have been so squarely based on the right of a jury trial that the court has embodied in its decision a very full discussion and a very explicit statement of conclusions.

For the presentation of both sides of the question one does not have to go outside of the court records. Within these records may be found a ringing protest, based on these very considerations of constitutionality, against the injunction as applied to disputes between employers and employees. A dissenting opinion in the case of *Hopkins v. Oxley Stave Company*<sup>1</sup> urges the point with a show of feeling not often found in judicial utterances—with something, indeed, of the passion of the advocate. The entire opinion is well worth reading, and it is to be regretted that its length makes it impossible to reproduce it in full. It seeks to counteract an alleged tendency of the courts to extend the use of the injunction to unjustifiable limits, endangering the more fundamental constitutional rights of the citizen. In answer to the arguments urged in favor of the injunction—that the injunction is a “swifter and speedier mode of dealing” or a “short cut” to the desired end, that it “avoids delay and uncertainty incident to a jury trial,” “occasions less expense” and “insures speedier punishment”—is opposed the conclusion that, conceding these pleas to be true, they would justify mob action. An energetic protest is then

<sup>1</sup> U. S. Circuit Court of Appeals. 83 Fed. Rep. 912.



made against the language in which such bills are framed. Parts of the bill are quoted, showing that the words "conspiracy," "threats" and "coerce" are freely used. "Indeed," the justice continues, "the plaintiffs' case is made to rest upon the use of these terms. It is important, therefore, at the threshold, to enquire what is meant by the use of these legal epithets in this case. Unexplained they have an evil import." A definition of each term in question is cited and a comparison is made with the alleged acts. "It is not true that there is nothing in a name. When for 'conspiracy' we substitute 'agreement,' and for 'threats' a 'notice,' the whole fabric of the plaintiffs' case falls to the ground." The opinion here quotes from Lieber, *Civil Liberty*, "There are psychological processes which indicate suspicious intentions"; and adds:

Among them is the use of high-sounding and portentous terms, from which much may be implied or imagined, instead of using plain and common words, which accurately describe the action and leave nothing to implication or imagination. If an act done or threatened to be done is lawful, it cannot be made unlawful by giving it a name which imports an illegal act. Names are not things. It is the thing done or threatened to be done that determines the quality of the act, and this quality is not changed by applying to the act an opprobrious name or epithet. . . . "Conspiracy" sounds portentous, but in this instance its sound is more than its meaning. As here used, it describes a perfectly innocent act—as much so as if the charge was that the defendants "conspired" to feed a starving comrade or to bury a dead one.

From this the opinion goes on to an even more important objection to the grant of the writ in this case. "It is vain to disguise the fact that this desire for a short cut originates in the feeling of hostility to trial by jury—a mode of trial which has never been popular with the aristocracy of wealth, or the corporations and trusts." This assertion is followed with a plea for the maintenance of jury trial. This form of trial is at the basis of our constitutional liberties. It has been handed down to us as a result of a long and desperate struggle, reaching far back in English history. Some of the early cases are referred to as emphasizing the difficulties and dangers involved in the

earlier phases of this struggle. Finally, the elasticity of the common law in its application to injunctions is summed up in the following words: "In that 'codeless myriad of precedents' running back to the dark ages called the 'common law,' it is not difficult to find a precedent for inflicting any injustice or oppression on the common people."

Judges frequently refuse to grant injunctions, and even in proceedings for the punishment of contempt dissenting opinions have been written against a decision to punish, but seldom, if indeed ever, has such a vigorous protest come from such a source. It serves to emphasize by contrast the unanimity of opinion on the part of the courts that the writ of injunction is an entirely justifiable procedure when used with discretion.

The opinion above cited was written in 1897. In 1901, in *Underhill v. Murphy*,<sup>1</sup> another judicial protest was registered. This time it came from an inferior state court. The court admitted that it was clearly its duty "vigorous and adequately to protect" the right of a man in his business. The important question, however, was, in the mind of the court, how such protection should be extended. Though this case was appealed and the decision reversed,<sup>2</sup> yet the opinion of the inferior court brings out so clearly the point under discussion that it is worth citing. If the relief sought is to be granted by a process of injunction, this, says the court,

means that a judge—one individual—sitting in equity must hear the evidence, determine the facts, convict the defendants and then, by fine and imprisonment, enforce his judgment; that no jury shall intervene, and that no barrier and no safeguard shall stand between the will of the judge and the liberty of the defendants. . . . This would seem a strong and harsh doctrine. . . . To carry out the doctrine contended for by counsel for plaintiff in this case would mean the substitution of judges for juries. It simply means to vest in one man the right to try, convict and punish without the intervention of a jury. . . . [Courts were originally intended] to afford remedy for wrongs committed and to enforce rights, [not] for the purpose of enabling a judge thereof to direct men what they should or should not do.

<sup>1</sup> Ky. Circuit Court. U. S. Department of Labor Bulletin no. 37, p. 1203.

<sup>2</sup> Ky. Court of Appeals. 78 Southwestern Rep. 482.

The injunction was to be used only in extreme cases, where no other remedy existed, and only for the purpose of preventing irreparable injury, and, finally, it was always to be used with extreme caution. In this case it was admitted that property rights had been violated and that a wrong had been committed. The law of the state, however, afforded remedy full and complete, but in the criminal branch, not in equity.<sup>1</sup>

These two opinions—the one a dissenting opinion and the other an opinion of an inferior court not sustained by the court of higher jurisdiction—serve in a negative way as an emphasis of the importance that the judges themselves attach to this line of argument. To turn to a positive statement of the court's own justification of the writ of injunction, so far as fundamental constitutional rights are concerned, we may note the reply to the opinion last cited. Referring to the fact that the circuit judge had refused to issue a writ on the ground that the criminal courts were open and that to enjoin in this case would amount in substance to the assertion of the right of a judge to try and convict for a criminal act without the intervention of a jury, the highest court of the state formulates its objection to such a conclusion in the following line of reasoning. Suppose that the defendants were about to slide the plaintiff's house with his family in it into the river.

An injunction would not be refused on the idea that, if they thus drowned any of the people in the house, they might be punished for murder, or, if they destroyed the house only, they might be indicted under the statute for the willful destruction of private property. The reason is plain: the punishment of the defendants for murder or for the destruction of the house, while it would vindicate the majesty of the law, would not help the plaintiff in any way. To relegate him to the processes of the criminal law is to allow his property to be destroyed, and to give him no remedy therefor but the satisfaction of seeing the wrongdoers punished. The inherent and inalienable right of acquiring and protecting property . . . means nothing if it means

<sup>1</sup> It is noteworthy that judicial criticisms of the use of the injunction in labor disputes come mainly from the elective judiciary and especially from local judges elected for brief terms and qualified to serve again if reflected. These conditions tend to make judges especially susceptible to political considerations.

only this. If a man must stand by and see his property destroyed, and has no remedy but the slow process of the criminal law, which only punishes the offender but restores nothing to him, then the constitutional guaranty of the enjoyment of life, liberty and property under the law is a meaningless generality. If, in this case, the defendants are fined in the police court, this will not restore to the plaintiff the loss he has sustained by reason of the interruption of his business and his consequent inability to carry out his contracts. When his customers are driven away, and the good will of his business is destroyed, it will be too late, so far as he is concerned, for the punishment of the appellees by the criminal law to reestablish his ruined business or even prevent future loss.<sup>1</sup>

Taking up one other point, the decision makes reference to the alternative of binding one over to keep the peace. Such a step is a proceeding by the commonwealth. If a bond is required it is taken to the commonwealth. But the plaintiff is entitled to a remedy in his own name. The fact of a commonwealth securing a bond for good behavior is immaterial, "for both proceedings may be prosecuted at the same time, one to prevent the commission of offenses, the other to preserve the plaintiff's property from destruction."

There is however another case that takes up the question of constitutionality more thoroughly and more pointedly than the one just cited, *viz.* *Union Pacific Railway Company v. Reuf.*<sup>2</sup> The decision is too long to be cited in full, but certain parts of it are fundamental. First are considered those parts of the constitution that refer to the right of jury trial:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed [United States Constitution, amendment 6].

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law [United States Constitution, amendment 7].

<sup>1</sup> *Underhill v. Murphy* (cited above: 78 Southwestern Rep. 482).

<sup>2</sup> U. S. Circuit Court. 120 Fed. Rep. 102.

In addition to these provisions of the federal constitution, the constitution of the state is quoted: "The right of trial by jury shall remain inviolate" (Nebraska State Constitution, article I, section 6); and the additional fact is pointed out that this provision in substance appears in all the state constitutions. These constitutional provisions have been the cause, the court continues, of a "great deal of inflammatory public speech and literature, all proclaiming that in no proceeding other than by jury trial can any person be subjected to fine or imprisonment." Because of this many persons have been misled into the belief that the "courts are usurping authority in dealing by injunction with those who interfere with the rights of others." "If any case, English or American, federal or state, could be found upholding such a claim, it could be said to be debatable." No case, however, exists.

When these constitutions were adopted courts of equity existed, and equity jurisprudence was recognized. And as plain as are these constitutional provisions, they are continuously misunderstood, because they are not correctly read. The provision above quoted from the United States constitution does not say that in all cases the right of trial by jury shall exist. But in the one case it shall exist in all criminal prosecutions, and in the other the right of trial by jury in common law actions shall be preserved.

In the state constitution quoted the expression is

"shall remain inviolate." In neither case is the right to be enlarged. In the one case it shall be preserved, and in the other remain as it was. And whether to be preserved or remain as at common law, or as of the date of the adoption of the constitutional provisions, is not now material. But the cases cited have to all lawyers and to all courts forever put this matter to rest.

So also in the case of the fifth amendment to the federal constitution, which guarantees that no person shall "be deprived of life, liberty or property, without due process of law," and in that of the fourteenth amendment, to the same effect, the meaning is "that neither Congress nor any other governmental agency shall ever deprive any person of either liberty or prop-

erty excepting by due process of law." From this view it of course follows that the court through the use of the writ of injunction is in no way violating the rights guaranteed by the constitution, but is, on the contrary, protecting persons in the exercise of their constitutional rights.

It is sometimes said that the right of a court of equity to interfere by injunction in criminal cases was never asserted until the beginning of contests between labor and capital in the form of strikes. This statement was made by the inferior court in the Underhill case, cited above, but is not supported by the weight of opinion as expressed in other decisions. In fact, almost as a unit, the courts deny that the injunction is an instrument newly made over into a weapon for the breaking of strikes. A single brief quotation from one case will serve as a type of the opinion expressed in a long line of decisions. In *United States v. Sweeney*<sup>1</sup> is found the following:

To claim that the exercise of the power to protect by injunction property and persons engaged in lawful business enterprises in proper cases, and where the remedy at law is inadequate and the injury irreparable, is new, or that such proceeding is a modern invention of the federal courts is as stupid as it is untrue.

In support of this contention the history of injunction is reviewed, to show that the court has the right to punish a violation of injunction without a trial. The conclusion of the reasoning is that in the case in point there is no violation of the constitutional right of trial by jury.

The constitutionality of the injunction process is urged in a more aggressive spirit in the *Debs* case.<sup>2</sup> Here it is based on the assumption that necessity is really the first law and that constitutionality must be implied. On this issue we read, in the decision rendered by the Supreme Court of the United States:

Nor is there in this any invasion of the constitutional right of trial by jury. . . . The power of a court to make an order carries with it

<sup>1</sup> U. S. Circuit Court. 95 Fed. Rep. 434.

<sup>2</sup> *In re Debs*, 158 U. S. 564.

the equal power to punish for a disobedience of that order, and the inquiry as to the question of disobedience has been, from time immemorial, the special function of the court. And this is no technical rule. In order that a court may compel obedience to its orders it must have the right to inquire whether there has been any disobedience thereof. To submit the question of disobedience to another tribunal, be it a jury or another court, would operate to deprive the proceeding of half its efficiency. [Here follow two citations from earlier cases.] "The summary power to commit and punish for contempts tending to obstruct or degrade the administration of justice is inherent in courts of chancery and other superior courts, as essential to the exercise of their powers and to the maintenance of their authority, and is part of the law of the land, within the meaning of Magna Charta and of the twelfth article of our Declaration of Rights." "If it has ever been understood that proceedings according to the common law for contempt of court have been subject to the right of trial by jury, we have been unable to find any instance of it." In brief, a court, enforcing obedience to its orders by proceedings for contempt, is not executing the criminal laws of the land, but only securing to suitors the rights which it has adjudged them entitled to.

The constitutional issue was raised with peculiar, not to say cynical, frankness by counsel for the defendants in *Hamilton Brown Shoe Company v. Saxey*.<sup>1</sup> Their argument, as summarized in the decision, appears to have been as follows: The defendants admitted that they were doing the wrongful acts charged, yet asserted that the court had no right to interfere. "They say that what they are doing is a crime, by the state law of this state, and that for the commission of a crime they can only be tried by a jury in a court having criminal jurisdiction." The counsel even quoted the statute showing that their acts were criminal, and claimed that the constitution guaranteed them "the right to commit crime with only this limitation, to wit, that they shall answer for the crime" in a legal way. The court's comment runs as follows: "The train of thought put in motion by the argument . . . leads only to this end, to wit, that the constitution guarantees to every man the right to commit crime, so that he may enjoy the inestimable right of trial by jury."

<sup>1</sup> Mo. Supreme Court. 32 Southwestern Rep. 1106.

## II

While the question of constitutionality is perhaps the one of prime importance, and the one in which most of the popular discussion centers, it is by no means the only one that the courts have had to solve. There are other points at which the attack has been only less vigorous than in the matter of jury trial, and these points have been covered with considerable fullness in many of the decisions.

(1) One of the most perplexing of these questions is that of establishing the real facts of the case in the absence of a jury. This difficulty is due, first of all, perhaps, to the conflicting evidence submitted. Sworn statements are often made that directly contradict one another. Between these the court has to decide, with the duty, on the one hand, of fairness to the parties to the suit and, on the other, of justice to the public, while at the same time the dignity of the court must be maintained. This difficulty would undoubtedly be greatly minimized if strikers did not so often try to get so near to the dividing line between the legal and the illegal. References to but few of the many cases will suffice to point out how real this difficulty is. In *Allis Chalmers v. Reliable Lodge*,<sup>1</sup> the court laid strong emphasis on the conflict of evidence and reached its conclusion only after balancing the probabilities in the case. In *Consolidated Steel and Wire Company v. Murray*,<sup>2</sup> the conflict of evidence was even more serious. The company here filed thirty-eight affidavits, which, in the words of the court, "fully support the averments of the bill, and the circumstances of many cases of assault and maltreatment are detailed with the names of the defendants concerned therein." Against this evidence the defendants filed forty-seven affidavits. "Each individual defendant makes affidavit denying any acts of intimidation or violence attributed to him, and enters upon a general denial, which is substantially the same in all the affidavits." Evidence was submitted from policemen on duty at the time and place to the effect that they had not seen any disorder.

<sup>1</sup> U. S. Circuit Court. 111 Fed. Rep. 264.

<sup>2</sup> U. S. Circuit Court. 80 Fed. Rep. 811.



The court discovered that there were men among the defendants of the same name as the policemen, and adds: "Whether they are relatives of the policemen of the same name, who are affiants, does not appear." Affidavits were filed from others, "more than a score," "employees and others," "including persons entirely disinterested," reciting acts of "intimidation and violence by the defendants and by others of the mob, assembled morning and evening and day after day" at stated places, "assaulting, beating, wounding and maltreating them." Attention is called by the court to the fact that the affidavits submitted by the defendants do not make any denial of the specific averments of the bill or of those of the company that there were continuous riotous assemblages doing acts or making threats of violence. This is "tantamount to an admission of the averments of the bill, notwithstanding the denials of the defendants that they participated in the unlawful acts of the rioters." "It is enough to say of these affidavits," the court concludes, "that they are so overwhelmingly contradicted as to be utterly discredited. If the affiants are not forsworn, they are, to put the matter in the most charitable light, gifted with such facility for appealing from their knowledge to their ignorance as to be altogether unworthy of belief." "These averments, taken together, make it clear" that there were lawless acts for which the defendants were responsible.

Again, in *Herzog and Erbe v. Fitzgerald*,<sup>1</sup> both threats and actual violence were detailed in the affidavits, while the defendants reiterated the general assertion that "at no time were any threats, force or intimidation used or attempted to be used," and that what was done was done "in a peaceful and lawful way." In *Jonas Glass Company v. Glass Blowers' Association*,<sup>2</sup> there was again a conflict of evidence; and here the court did not find that illegal acts were established with sufficient clearness to warrant the issue of the writ.

(2) After the facts of the case have been determined, in face of conflicting evidence, it remains to say whether the acts

<sup>1</sup> N. Y. Supreme Court, Appellate Division., 74 App. Div. 110.

<sup>2</sup> N. J. Court of Chancery. 54 Atlantic Rep. 567.

attributed to the defendants constitute violations of the law. This question is regularly complicated with the question of conspiracy—the question how far the number of participants changes the legal nature of an act. Of the many cases in point, only a few need to be cited to show the difficulties that are encountered in answering this question. When intimidation is such as to deter one from going to seek work, it becomes force and violence. *Cf. American Steel and Wire Company v. Wire Drawers' and Die Makers' Unions.*<sup>1</sup> As regards picketing, it is maintained in *Beck v. Railway Teamsters, Protective Union*<sup>2</sup> that “it will not do to say that these pickets are thrown out for the purpose of peaceable argument and persuasion. They are intended to intimidate and coerce.” The definition of the word “picket” as found in the dictionaries is quoted: “A body of men belonging to a trade union sent to watch and annoy men working in a shop not belonging to the union, or against which a strike is in progress.” The court comments: “The word originally had no such meaning. This definition is the result of what has been done under it, and the common application that has been made of it.” In *Cumberland Glass Company v. Glass Blowers' Association*<sup>3</sup> coercion is carefully distinguished from persuasion. The company alleged a list of acts committed by the strikers, and the strikers, in their reply, practically admitted the allegations except as regarded acts of violence. The writ was issued, but only against those who were shown to have used force or coercion. It is agreed, says the court, that coercion is illegal, but “in respect to what acts are to be regarded as coercive there is naturally more difference in judicial sentiment.” The force of the testimony is that while only persuasive methods were contemplated, “coercive measures were in fact resorted to.” It appears plain from the evidence that the crowd of “guards,” judged by its size and acts, was “designed for coercive as well as persuasive purposes.” In *Jordahl v. Hayda*,<sup>4</sup> the appellants urged that the words used

<sup>1</sup> U. S. Circuit Court. 90 Fed. Rep. 608.

<sup>2</sup> Mich. Supreme Court. 77 Northwestern Rep. 13.

<sup>3</sup> N. J. Court of Chancery. 46 Atlantic Rep. 208.

<sup>4</sup> Cal. Court of Appeals 82 Pacific Rep. 1079.

in the finding, "threats," "intimidation," "driven away," "prevented" *etc.* implied force, and that the evidence did not show that force was used. The court held, however, that a show of physical force was not necessary.

Persons might have been "prevented" from patronizing plaintiff, or "driven away" from his place of business, or "interfered with" in an attempt to go into or out of his restaurant, by conduct falling short of actual violence, and yet the conduct might be of such character as to effect the object of defendants to the injury of plaintiff in a way which could not be adequately measured in an action for damages.

In *O'Neill v. Behanna*, the court said that the testimony submitted must be read "in the light of experience and a knowledge of human nature."

The strikers and their counsel seem to think that the former could do anything to attain their ends, short of actual physical violence. This is a most serious misconception. The "arguments" and "persuasion" and "appeals" of a hostile and demonstrative mob have a potency over men of ordinary nerve which far exceeds the limits of lawfulness. The display of force, though none is actually used, is intimidation and as much unlawful as violence itself.

According to the testimony, the strikers had been assembling in numbers at the railway station to meet the incoming trains and to persuade the men that were arriving not to go to work. Referring to this policy, the court said: "The presence [of the men at the depot] indicates their real intentions too plainly for any verbal denials on their part to offset." A right of the strikers to talk to the new men and persuade them not to go to work did not at that time exist. The new men were there presumably under contract and "certainly in search of work if not yet actually under pay." They were not at leisure, and their time could not lawfully be taken up by outsiders on the pretense of a right to argue or to persuade them to break contracts. Arguments were used at improper times. In *Reinecke Coal Mining Company v. Wood*<sup>1</sup> the effect of num-

<sup>1</sup> U. S. Circuit Court. 112 Fed. Rep. 477.

bers is again considered, but this time in connection with other evidence of coercive purpose. "The intrusion of the defendants, so long as mere peaceful argument and persuasion were used, was in no way violative of the rights of the complainant; but when that persuasion took the form of the multitudinous camp and the gun and the pistol and the armed force, it passed the bounds of legal right." Yet again we read in the Union Pacific case: <sup>1</sup>

The question of fact in the case is this: Have the methods to destroy the motive power of the company been by argument and persuasion and by peaceable methods? If so, the writ of injunction, under the law as evidenced by the authorities cited, should be denied. Or have the methods to destroy the motive power of the company been attended with assaults and violence and intimidation and terrorizing?

An interesting effort on the part of strikers to avoid violation of the letter of the law and at the same time accomplish their purposes is recorded in the Wabash Railroad case.<sup>2</sup> The committee of the strikers posted notices of which the following is a copy: "You are requested to stay away from the shop until the present difficulty is settled. Your compliance with this will command the protection of the Wabash employees. But in no case are you to consider this an intimidation." Other notices to various groups ended with the same sentence. On this the court comments: "The statement in all of these notices that they are not to be taken as intimidations go to show beyond a doubt that the writer knew he was violating the law, and by this subterfuge sought to escape its penalties."

(3) There is yet another source of dissatisfaction to those who feel that the use of the injunction is not properly restricted. It is taken to be the duty of the court to observe the distinctions between criminal and civil cases and between cases at law and cases in equity. To intrude the principles of equity into the proper sphere of the ordinary law creates dissatisfaction. At the same time to allow wrongs to be committed with im-

<sup>1</sup> Union Pacific Railway Company *v.* Reuf (cited above: 120 Fed. Rep. 102).

<sup>2</sup> U. S. Circuit Court. *In re* Wabash Railroad Company, 24 Fed. Rep. 217.

punity because they are theoretically remediable by the ordinary law, when it is certain that no proper redress can be secured in that way, is to create both dissatisfaction and miscarriage of justice. Throughout all the cases there is a very general consistency on this point. The following citations will serve to make the position of the courts clear. In *Arthur v. Oakes*<sup>1</sup> we read:

The authorities all agree that a court of equity should not hesitate to use this power [that of injunction] when the circumstances of the particular case in hand require it to be done in order to protect the rights of property against irreparable damages by wrongdoers. . . . That some of the acts enjoined would have been criminal, subjecting the wrongdoers to actions for damages or to criminal prosecution, does not, therefore, in itself determine the question as to interference by injunction. If the acts stopped at crime, or involved merely crime, or if the injury threatened could, if done, be adequately compensated in damages, equity would not interfere. But as the acts threatened involve irreparable injury to and destruction of property for all the purposes for which the property was adapted, as well as continuous acts of trespass, to say nothing of the rights of the public, the remedy at law would have been inadequate.

In *Cœur d'Alene Mining Company v. Miners' Union*<sup>2</sup> the court said:

Equity will not interfere to prevent the commission of a crime. But when an attempt to injure constitutes acts or words which will operate to intimidate and prevent the customers of a party from dealing with him or laborers from working for him, the courts have, with nearly equal unanimity, interposed by injunction.

The same view is expressed in the following passages:

Defendants insist that equity cannot properly interfere. But the inadequacy of a legal remedy in such a case as this one is quite apparent. . . . The attempt of the defendants, despite the objections of the company . . . was one of constant, daily, almost hourly occurrence. The case was one of continuing trespass, involving injury of

<sup>1</sup> U. S. Circuit Court of Appeals. 63 Fed. Rep. 310.

<sup>2</sup> U. S. Circuit Court. 51 Fed. Rep. 260.

a permanent nature. A suit at law could only have determined the particular wrong occurring on a particular occasion, and would not reach other wrongs of a like character that would occur almost every hour of each day. . . . Only a court of equity was competent to meet such an unusual emergency, and by a comprehensive decree determine finally and once for all the entire controversy between the parties, thus avoiding a multiplicity of suits, and conserving the public interests. No remedy at law would be so complete or efficacious as a suit in equity in such a case as this one.<sup>1</sup>

What right have the complainants here in this court asking for the restraining power of the court? . . . It is quite plain that the relief in damages to be recovered in an action at law is entirely inadequate. It is quite absurd to say that they can sue each of these persons, and recover damages against them in separate suits, for every little act which, in the aggregate, tends to result in injury. . . . The injury is continuing and irreparable, and not capable of admeasurement according to legal principles. . . . So that at law the remedy is entirely inadequate. It is, therefore, a clear case for the interposition of a court of equity to exercise its preventive remedy, and that is the particular sphere at this day of a court of equity, as contradistinguished from a court of law. It prevents injury. It does not give damages for injuries already sustained, but it prevents an injury from being inflicted.<sup>2</sup>

Many courts of the highest character have held . . . that a suit in equity may be maintained to prevent the persons concerned in such a combination from carrying the same into effect, when the damages would be irreparable, or when such a proceeding is necessary to prevent a multiplicity of suits. . . . If the remedy at law is for any reason inadequate, resort may be had, as in other cases, to a court of equity.<sup>3</sup>

The decisions are not all on the one side, however, for some cases are brought to court where the facts do not so clearly demand equitable interposition. Among these may be cited, as illustrative, the following:

I am not inclined to grant the injunction *pendente lite* when the action can be tried and the rights of the parties more satisfactorily disposed of

<sup>1</sup> U. S. Supreme Court. *Donovan v. Pennsylvania Company*, 26 S. C. Rep. 91.

<sup>2</sup> N. J. Court of Chancery. *Frank v. Herold*, 52 Atlantic Rep. 152.

<sup>3</sup> U. S. Circuit Court of Appeals. *Hopkins v. Oxley Stave Company* (cited above: 83 Fed. Rep. 912).

at no very distant date. It is not the policy of the law to grant injunctive relief during the pendency of the action, where the relief would be the same as that ultimately granted if the plaintiffs succeeded at the trial, and the plaintiffs' right to the relief sought is involved in doubt.<sup>1</sup>

In *Stone Cleaning Union v. Russell*<sup>2</sup> the court refused the writ on the ground that, the contract having been violated by the employer, the employees had access to the court in suit for damages. "The court will not interfere by injunction in the case of a builder's breach of his agreement with a labor union to employ none but its members. . . . The labor union has an adequate remedy at law, and that remedy is the same as that of any employee wrongfully discharged."

(4) The final consideration which, in the view of the courts, determines the necessity for the writ of injunction is one that is more vague, more difficult to express in concise form. It may best be expressed, perhaps, as a desire to deal in the most effective way with difficulties which apparently baffle solution and to bring order out of chaos. One can hardly escape the conclusion that, after all, there lies behind all the argument and the logic a determination to continue the use of the injunctive writ, for the reason, primarily, that a situation exists that is dangerous to the community and that this situation is not likely to be met in any other way. In other words, so long as the disorder so frequently associated with strikes is not suppressed by other branches of the government, it must be dealt with by the courts. And as no other branch of the court can deal with the situation, the jurisdiction of the equity court has been extended to meet the necessity. References elsewhere made in this article indicate the basis upon which this conclusion rests. Destruction of property and property rights proceed unchecked, violence and disorder interfere with business rights, men seeking work are not able to take steps toward securing it because of the personal dangers encountered. The executive seems not to deal with the matter. All these are urged as underlying reasons for something being done that will be effective.

<sup>1</sup> N. Y. Supreme Court. *Cohen v. United Garment Workers*, 35 Misc. 749.

<sup>2</sup> N. Y. Supreme Court. 38 Misc. 513.

In following this line of thought, it is best to begin with the cases in which the propriety of the interference of the courts is most hotly contested. The right to strike is no longer questioned by the courts. Unless the situation be complicated by some other circumstance, it is generally asserted that the employee may stop work at any time and for any reason or for no reason. Labor is a form of property which the laborer has for sale, and his power to dispose of this property to the best advantage is not disputed. So also a man's business is his property, and he is constitutionally protected in its enjoyment just as is the laborer in the enjoyment of his property, *i. e.*, his labor. It is in the conflict between these two competing factors that the court attempts to hold an even hand of justice. Clearly the two rights (they are in reality but two phases of the same right) are mutual, mutual in their extent and mutual in their limitations. In the competitive field each limits the other. These very obvious considerations the courts recognize, but in applying the general principle to particular cases as they arise difficulties are encountered. In *Doremus v. Hennesy*<sup>1</sup> the matter was dealt with entirely from the point of view of the rights and limitations of competition. "Full freedom in disposing of his labor or capital according to his own will as between himself and others" is the undoubted right of all. An invasion of that right "without lawful cause or justification" is legal wrong.

Lawful competition that may injure the business of another, even though successfully directed to driving that other out of business, is not actionable. Nor would competition of one set of men against another set of men, carried on for the purpose of gain, even to the extent of intending to drive from business that other set and actually accomplish that result, be actionable unless there was actual malice. Malice, as here used, does not merely mean an intent to harm, but means an intent to do a wrongful harm or injury. An intent to do a wrongful harm and injury is unlawful, and if a wrongful act is done to the detriment of the rights of another it is malicious, and an act maliciously done, with the intent and purpose of injuring another, is not lawful competition.

<sup>1</sup> Illinois Supreme Court. 52 Northwestern Rep. 924.



In *Frank v. Herold*,<sup>1</sup> the rules of the common law regarding master and servant are invoked to determine the extent to which the relation of employer and employee is to be protected against interference by third parties.

Any person who works for another for a salary is a servant in the eye of the law. Now the relation of master and servant being shown to exist, the law is quite clear that no person has the right to entice away another's servant, or to prevent him from performing his duties as servant. The right of a master to have his servant continue in his employment without molestation or enticement by any third party is a property right, so recognized by the law.

In this passage the New Jersey court ignores the extent to which the status of service has been superseded by the freer contractual relation of employment. If the old common-law rule here reasserted were enforced not only against picketing unions but also against competing employers, it would seriously limit competition for labor and correspondingly injure the laborer's market.

The general point of view here under consideration—the feeling of the courts that a social emergency is to be dealt with—finds expression in many judicial utterances already cited. A few more dicta of the same character are appended.

A court of equity should not hesitate to use this power when the circumstances of the particular case in hand require it to be done in order to protect the rights of property against irreparable damages by wrongdoers.<sup>2</sup>

If there be no redress for such wrongs, then the government is impotent indeed.<sup>3</sup>

The inadequacy of a legal remedy in such a case as this one is quite apparent. . . . Only a court of equity was competent to meet such an unusual emergency.<sup>4</sup>

<sup>1</sup> Cited above: 52 Atlantic Rep. 152.

<sup>2</sup> *Arthur v. Oakes* (cited above: 63 Fed. Rep. 310).

<sup>3</sup> *Beck v. Teamsters' Union* (cited above: 77 Northwestern Rep. 13).

<sup>4</sup> *Donovan v. Pennsylvania Company* (cited above: 26 U. S. S. C. Rep. 91).

That the bill filed in this case alleged special facts calling for the exercise of all the powers of the court is not open to question. The picture drawn in it of the vast interests involved, not merely to the city of Chicago and the state of Illinois, but of all the states, and the general confusion into which the interstate commerce of the country was thrown, the forcible interference with that commerce, the attempted exercise by individuals of powers belonging only to the government, and the threatened continuance of such invasions of public rights, presented a condition of affairs which called for the fullest exercise of all the powers of the courts. If ever there was a special exigency, one which demanded that the court should do all that courts can do, it was disclosed by this bill, and we need not turn to the public history of the day, which only reaffirms with clearest emphasis all its allegations.<sup>1</sup>

Formerly courts of equity were extremely reluctant to interfere at all, even in regard to cases of repeated trespasses. But now there is not the slightest hesitation, if the acts done or threatened to be done to the property would be ruinous, irreparable, or would impair the just enjoyment of the property in future. If, indeed, courts of equity did not interfere in cases of this sort, there would, as has been truly said, be a great failure of justice in this country.<sup>2</sup>

In respect to acts which constitute a nuisance injurious to property, if

the injury is of so material a nature that it cannot be well or fully compensated by the recovery of damages, or is such as from its continuance and permanent mischief might occasion a constantly recurring grievance, a foundation is laid for the interference of the court by way of injunction. [The power to enjoin was formerly exercised sparingly and with caution,] but it is now fully established, and will be exercised as freely as in other cases in which the aid of the court is sought for the purpose of protecting legal rights from violation.<sup>3</sup>

Many other extracts of the same purport might be inserted, if it were necessary, to show the determination of the courts to take any action that is necessary to secure the ends of law and

<sup>1</sup> In re Debs (cited above: 158 U. S. 564).

<sup>2</sup> *Arthur v. Oakes* (cited above), quoting Story.

<sup>3</sup> *Ibid.*, quoting Kerr on Injunction.

order. As the principle is stated, the only limit in its application seems to be the necessity of the case. What that necessity may be depends, of course, on the extent to which public opinion and the coördinate branches of the government allow the trouble to develop.

### III

In a large number of injunction cases that come before the court in the form of contempt proceedings there is ever present the question: upon whom is the injunction binding? In this matter there has developed some difference of opinion, first, as to the persons against whom the writ runs, and second, as to the persons who are to be held responsible in case of its violation. In *Conkey Company v. Russell*,<sup>1</sup> charges were urged against one who had come to the town to direct the strike after the issue of the writ. He claimed that the writ was not against him as he was not there at the time of its issue. The court held, however, that he was guilty of contempt for combining with those enjoined by aiding them in violation of injunction, "with full knowledge of the scope and effect of the restraining order," and in that he did "aid, abet and assist them [the strikers] in acts of violence in violation of the injunction." "Jurisdiction existed by reason of the conspiracy to defeat the process of the court, and although such person is a stranger to the suit, and, by reason of his citizenship, could not have been made defendant therein." In *Cumberland Glass Company v. Glass Blowers' Association*,<sup>2</sup> the court granted the injunction sought, but only against those who were shown to have used force or coercion, refusing to enjoin the officers of the association as such. In *Curphey and Mundy v. Terrell*<sup>3</sup> an injunction was granted against certain persons, but not against all the members of the unions concerned nor against any one as a member of a union. The unions themselves were not made parties. In an effort to dissolve the injunction the court dealt with the case as one against individuals, not against unions.

<sup>1</sup> U. S. Circuit Court. 111 Fed. Rep. 417.

<sup>2</sup> Cited above: 46 Atlantic Rep. 208.

<sup>3</sup> Miss. Supreme Court. 39 Southern Rep. 477.

The injunction was supported against those "shown by the record to have actually and violently committed a trespass . . . or who personally attempted to intimidate the non-union employees." Had the injunction issued against unions or charged conspiracy among the individuals, "an entirely different question would have been presented."

These statements are much less annoying to those who come into personal contact with injunctive processes than are such statements as the following :

The court must grant the writ in broad and unmistakable terms. . . . To do so will work no hardship, nor will it even hamper the action of any law-abiding person. Indeed, no one without a purpose to commit an unlawful act would be affected thereby.<sup>1</sup>

The restraining order does not deprive any one of any right nor require of him any wrong. It only requires that no wrong shall be committed, that no right shall be infringed. The order can do no harm, even if not clearly and absolutely justified, but I think the facts justify it, and as it was made, so it is continued.<sup>2</sup>

It is not necessary that one should be a party to the suit in which an injunction issues, in order to render him liable to punishment for a violation of it. Any person who, having notice that such an order has been made against a party to the suit, aids and assists that party in its violation, is as much amenable to proceedings for contempt as if he were a party named in the record. . . . To render a person amenable to an injunction, it is neither necessary that he should have been a party to the suit in which the injunction was issued, nor have been actually served with a copy of it, so long as he appears to have had actual notice.<sup>3</sup>

We are at a loss to perceive how the continuance of the injunction until final hearing can work any serious inconvenience, because [the persons enjoined] have all disclaimed participating in the acts charged against them ; and, if they are restrained from doing that which they have not done and do not intend to do, they have no ground of complaint, at least during the pendency of the proceedings, and until the final hearing is reached.<sup>4</sup>

<sup>1</sup> *Allis Chalmers Company v. Reliable Lodge* (cited above : 111 Fed. Rep. 264.)

<sup>2</sup> U. S. Circuit Court. *Gulf Bag Company v. Suttner*, 124 Fed. Rep. 467.

<sup>3</sup> *Ex parte Lennon*, 166 U. S. 548.

<sup>4</sup> Md. Court of Appeals. *My Maryland Lodge v. Adt*, 59 Atlantic Rep. 721.

In other cases the courts have taken a different attitude. In *Pope Motor Car Company v. Keegan*,<sup>1</sup> the complainants urged that the injunction ought to reach all of the defendants named in the bill; that all were out on strike and that, if they were law-abiding and not intent upon participating, they would not be harmed by the issuance of the injunction against them. To this the court replied:

I cannot escape the conclusion that, under the circumstances of this case, where the defendants are made such in their individual capacity and not in any organized capacity, it would be a gross injustice to attach to persons who have not been shown to be participants in these transactions the stigma of an injunction, or to make them . . . subject to the payment of any costs which necessarily accrue in such a case.

In the *Union Pacific* case<sup>2</sup> the contention was that the writ should cover persons presumably innocent for the reason that "the writ of injunction can do no harm to a law-abiding man, even though not warranted by the evidence." To this the court replied, "I do not so believe," and stated two reasons, first, "I should not be mulcted in the costs," second,

I should not be humiliated by having an injunction run against me, when there is no evidence that I have done, or, so far as evidence shows, am not likely to do, any of the things complained of, and am not acquiescing, by silence or otherwise, in what my collaborators, or men in a class to which I belong, are doing.

But lest this statement should seem to remove too fully the restraint from those not named in the writ, the court added, after refusing to include by name any persons against whom there was no evidence,

yet the writ will include, in effect, all those who quit the company's service, and are engaged in the strike, with the purpose of compelling the company to reemploy them by attempting to impair the motive power of the company or otherwise cripple its service. In other

<sup>1</sup> U. S. Circuit Court. 150 Fed. Rep. 148.

<sup>2</sup> *Union Pacific Railway Company v. Reuf* (cited above: 120 Fed. Rep. 102).

words, the class of men will be controlled by the injunction, and the class of men above alluded to will not violate the injunction, except at their peril.

It is often claimed by those enjoined that the injunctive order is not sufficiently specific as regards the particular acts that are enjoined. This, of course, creates a feeling of uncertainty on the part of those concerned in a strike. The Jordahl case<sup>1</sup> illustrates this point. The defendants complained that the injunction was "indefinite and uncertain," and that it was "impossible to ascertain therefrom what acts defendants are enjoined from performing." To this the court replied:

The court was not called upon, nor was it practicable, to enumerate the particular acts which in its opinion would be regarded as acts of intimidation. . . . Defendants are presumed to be intelligent and law-abiding citizens, and, as such citizens, the court was content to leave to them the determination of what particular acts they could in future safely resort to without violation of its directions. The meaning of the injunction is plain enough, and so long as the defendants keep within the intention expressed by the court they will be within their rights so far as any violation of this judgment is involved.

#### IV

The question of precedent has often been raised, especially by counsel for defendants. It is frequently urged that the courts have never before used the power of injunction in the particular way proposed, or even that the general policy of enjoining strikers is one that cannot be justified from the precedents of the court, *etc.* Such an argument finds a ready answer in the decisions. In *Toledo etc. Railway Company v. Pennsylvania Company*<sup>2</sup> the court said:

Every just order or rule known to equity courts was born of some emergency to meet some new conditions, and was, therefore, in its time, without a precedent. If based on sound principles, and beneficent results follow their enforcement, affording necessary relief to the

<sup>1</sup> *Jordahl v. Hayda* (cited above: 82 Pacific Rep. 1079).

<sup>2</sup> U. S. Circuit Court. 54 Fed. Rep. 730.

one party without imposing illegal burdens on the other, new remedies and not unprecedented orders are not unwelcome aids to the chancellor to meet the constantly varying demands for equitable relief. [Quoting from another case.] "I believe most thoroughly that the powers of a court of equity are as vast, and its processes and procedure as elastic, as all the changing emergencies of increasingly complex business relations and the protection of rights can demand." [Quoting again.] "It is one of the most useful functions of a court of equity that its methods of procedure are capable of being made such as to accommodate themselves to the development of the interests of the public in the progress of trade and traffic by new methods of intercourse and transportation."

The same position is taken in *Otis Steel Company v. Local Union*; <sup>1</sup> and this case is of particular interest as showing more fully the court's attitude toward some of the methods adopted by strikers to carry their point. In this case the counsel for the defense reviewed the history of the writ of injunction in order to emphasize the extreme care which the courts had always exercised in its issue. Commenting on this line of argument, the court said:

It is peculiarly appropriate, in the analysis of these strike cases, to consider the great power which the jurisdiction to issue this writ confers, and the strict boundaries which should confine its use, because the beginning of all the trouble was the attempt of the Iron Moulders' Union, No. 218, without the assistance of a court, to enjoin the complainant from operating its plant. That injunction was attempted to be enforced, not only against the complainant, but against all non-union moulders; and its terms, as addressed to the complainant, were, in substance, "You must not proceed with your business and the operation of your plant unless you comply with the conditions which we have imposed"; and as to the non-union moulders, "You shall not work for the Otis Steel Company." It would not be claimed for a moment that there has ever existed any authority in the defendant to so issue its edicts against either the complainant or the non-union moulders. The assumed right thus to dictate to others may be referred to an unfounded notion on the part of this moulders' union that it and its members are the exponents of some higher law than that which may

<sup>1</sup> U. S. Circuit Court. 110 Fed. Rep. 698.

be administered by courts. It would not be urged for a moment that this moulders' union, or its members, could have rightfully obtained from any court the injunction against the Otis Steel Company and the non-union moulders, which, in the course of this strike, has been attempted to be enforced. If, from the history of the writ of injunction, it can be gathered that courts should exercise great care in its use, it follows with more force that a self-constituted body of men, deriving no authority from recognized law, should not be permitted to originate edicts for the government of others and attempt to enforce them by any means whatsoever.

It is because of the varying circumstances of the cases

that courts of equity constantly decline to lay down any rule which shall limit their power and discretion as to the particular cases in which such injunction shall be granted or withheld. . . . And there is wisdom in this course, for it is impossible to foresee all the exigencies of society which may require their aid and assistance to protect rights or redress wrongs. The jurisdiction of these courts, thus operating by special injunction, is manifestly indispensable for the purposes of social justice in a great variety of cases, and therefore should be fostered and upheld by a steady confidence.<sup>1</sup>

Seldom does it occur that the language of decisions is other than the temperate, passionless expression of logical reasoning. It is certainly of decided advantage to the interests of stability in our judicial system that such is the case. Unfortunately it can not be said that this mode of expression is the absolute rule. While the exceptions are exceedingly rare, yet it is often the exception that finds its widest circulation in the labor and socialistic literature. This has a very unfortunate result; it adds greatly to the distrust with which these social groups already regard the courts. Two extracts will illustrate the kind of writing referred to.

I do not recognize the right of laborers to conspire together to compel employees who are not dissatisfied . . . to lay down their picks and shovels and to quit their work, without a just or proper reason therefor, merely to gratify a professional set of "agitators, organizers and

<sup>1</sup> Arthur v. Oakes (cited above: 63 Fed. Rep., 310), quoting Story.



walking delegates," who roam all over the country as agents for some combination, who are vampires that live and fatten on the honest labor of the coal miners of the country, and who are busybodies creating dissatisfaction amongst a class of people who are quiet, well-disposed, and who do not want to be disturbed by the unceasing agitation of this class of people.<sup>1</sup>

When . . . the attempt is made, through intimidation and acts of violence, to effect this end [to keep others from work], it is tyranny of the most despotic character; it is civil war; it is treason to the principles of this and almost every other government. It will not be tolerated.<sup>2</sup>

## V

It thus appears that the courts have very decided opinions, not only as to the unquestioned constitutionality of the injunction, but also as to its usefulness. It does not follow, however, that either constitutionality or usefulness justifies altogether the methods followed in its use.

One who reads a large number of the decisions can hardly fail to obtain the impression that the courts are coming to grant injunctions with increasing willingness. It seems as if the benefit of the doubt were coming more and more to be given to the complainant in his request for the issuance of the writ. Precedents are so numerous that the courts are now omitting to cite them, passing on with the simple recognition of the fact that the right of equity is now fully established. One case of great necessity so easily becomes a precedent for another, the necessity of which is not quite so evident, that almost unconsciously the courts seem to have come to the point of now granting writs where at first the need for them would have been denied. If this is so, and the cases seem to indicate that it is so, it may well become still more easy in the future to secure injunctions against strikers. The growing frequency with which employers who find themselves confronted with a strike appeal to the courts for a writ is further evidence of the tendency to grant injunctions readily. The process by which a writ is secured

<sup>1</sup>U. S. Circuit Court. *United States ex rel. Guaranty Trust Company v. Haggerty*, 116 Fed. Rep. 510.

<sup>2</sup>*Allis Chalmers Company v. Reliable Lodge* (cited above: 111 Fed. Rep. 264).

seems to be very easy. The court is appealed to, perhaps, as in one case, in chambers "late on Saturday night." The situation set forth (by interested counsel) discloses, in the words of the judge, "an emergency in which prompt action was necessary"; and the judge adds: "I had granted a similar mandatory order, in 1891, on a bill for an injunction, and it was enforced with beneficial results." He concludes that the bill "clearly entitles the complainant to relief."<sup>1</sup> So far, it must be admitted, the proceedings are very one-sided.

Then the time comes when the temporary injunction is to be made permanent. Here it seems to the one against whom the writ has been issued very much as if the court had shifted the burden of proof. It is not for the complainant to show cause why the injunction should be made permanent. The burden of proof lies with the defendant, and it rests with him to show why the writ should not be made permanent. To the defendant it seems as if guilt were assumed until innocence is established. Here again may be noted the difference between the popular view of the labor leaders and the legal view of the court, based on the distinction between criminal and equity processes. The court would hold that (in theory) the temporary injunction is not issued until a *prima facie* case of anticipated damage is made out. Then, according to the rules of procedure, the plaintiff having made out a *prima facie* case, the burden of proof shifts. Whether or not the *prima facie* case is actually established before the temporary writ is issued rests of course with the integrity and fairmindedness of the judge. It is important, however, to keep to the necessary distinction between what is done in accordance with the underlying theory and what may be done because of the bias of an individual judge.

A further point is of importance in connection with the effort to make permanent a temporary writ. The writ has been issued. To recall it would, in a sense, be an acknowledgment that its issue was an error. This consideration has the more

<sup>1</sup> Toledo, *etc.* Railroad Company v. Pennsylvania Company (cited above: 54 Fed. Rep. 730).

force when it is recalled that the second hearing takes place before the judge who issued the first restraining order.

In this second step of the proceedings the defendants find themselves confronted with a bill of charges, couched in a formidable array of words, accusing them of a startling series of crimes. Here again it seems to them as if their case had been prejudged. The situation is aggravated by the fact that the counsel for the complainant so often writes the restraining order which the court issues. "The order [of injunction] was drawn by plaintiff's attorney, as is usual in such cases."<sup>1</sup>

Though these facts may convince one that the power to issue the writ is occasionally abused, yet it is to be hoped that the use of the injunction in labor disputes will never be abolished. Its usefulness is too evident. It is too firmly grounded in the common law. It is earnestly to be hoped that the abuses will be speedily ended. Some of these abuses have already been made clearly apparent. These should be dealt with without delay. Interested counsel should not be permitted to draft the writ. Hearing for permanency should not be before the judge who granted the temporary writ. A distinction should probably be made between contempt in the presence of the court and contempt not in the court's presence.

The final test to be applied to any proposed modification is, however, the test of efficiency. The preventive efficiency of the writ of injunction must not be lessened. If a change would result in decreasing the preventive efficiency of the procedure, it should not be made, even if it be clear that some other minor injustice would thereby be removed.

The moral remedy lies in another direction. The conditions that give rise to the evil must be dealt with. Here it is that the entire matter lies squarely in the hands of the strikers, and further, since the strikers are almost uniformly organized laborers, it lies with the unions themselves. They must do one or both of two things. They must organize in a corporate form, so that the organization will have a legal stand-

<sup>1</sup> Minn. Supreme Court. *Gray v. Building Trades' Council*, 97 Northwestern Rep. 663.

ing. This will do away with a large part of the objection that the strikers can be dealt with in no other way than through the injunction. They must organize and conduct strikes in a manner free from the lawlessness which sooner or latter appears with nearly every important strike. If the lawlessness is on the part of the members, the unions must discipline the members. If it is on the part of their sympathizers or of the "lawless mob," they must manifest a greater agility in bringing such elements to justice. It is safe to conclude that until these things are done, "public opinion"—the backbone of support of every strike—will range itself on the side of law and order, and on the side of a use of the injunction, if that be necessary, in the interests of law and order.

How intimately the real interests of the laborers are wrapped up in the orderly conduct of their affairs the courts themselves realize as fully as any one. To emphasize this point, let one case speak for many:

No class of men stands more in need of the protection of the law and its safeguards than do laboring men, nor to any class is public sympathy and the support of public opinion more desirable, and to no class will both these be more cordially extended so long as these organizations keep themselves within the limits of law and order. Whenever they exceed such limits, they greatly weaken themselves and the cause they represent, for an overwhelming majority of the American people are so thoroughly in favor of the maintenance and supremacy of law that they will defeat any attempt to pervert it or overthrow it.<sup>1</sup>

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<sup>1</sup> Consolidated Steel and Wire Company *v.* Murray (cited above: 80 Fed. Rep. 811).

## THE NEEDS OF THE RAILROADS

**T**HAT the railroad companies may fulfil their duties to the nation, it is essential not only that their tariffs do not impede commerce but that the work of transportation be adequately performed. This includes the provision and maintenance of sufficient facilities—tracks, locomotives, cars, buildings and structures—and of a properly organized and disciplined force of employees. It includes also, if the performance is to be continuously adequate, an extension of the facilities of the railroads as the volume of traffic increases. Inasmuch as the railroads of this country were constructed by capital subscribed by bondholders and stockholders, and as their extension must be provided for mainly by subscriptions of further capital to stock or to bonds, it is obvious that the profits from operation must be sufficient to attract capital in competition with other opportunities for investment.

Seventy or eighty years ago, the first and foremost need of the country was for means of communication and transportation, and capital was subscribed simply that railroads might be built, profit from their operation being usually a future and secondary consideration. Traffic in general was undeveloped, and there was no criterion by which the success of a projected railroad could be gauged. The probable volume of traffic, amount of earnings and expense of operation could only be guessed at. Subscriptions were frequently made directly to the promoters.

Nowadays, as a rule, before capital in considerable amounts is subscribed either to build a new or to extend an existing railroad, a proposed issue of bonds or stock is scrutinized by one or more of the great banking houses. The consent of a banking house to negotiate the issue does not indeed guarantee either the integrity of the investment or the continuance of return upon the investment, but such negotiation gives the issue a prestige proportionate to the confidence which the banking house enjoys among its clients and depositors and the public in

general. The examination on behalf of the banking house is made by experts, who consider, in case of an existing property, its physical condition, traffic and administration and, in the case of a new railroad, the traffic which will probably come to it and the ability of its projectors. A somewhat similar scrutiny of the record of the railroads of the United States as a whole will afford basis for conclusions as to what they need in the way of extensions and of increased facilities, and in the way of capital with which to provide for such betterments.

The principal factors through which the record of a railroad is brought to test are:

(1) *The gross earnings*, which depend upon the rates and the volume of traffic. Traffic is measured by ton miles, the unit being one ton of freight carried one mile, and by passenger miles, the unit being one passenger carried one mile. The sum of ton miles and passenger miles may, for the purposes of this article, be considered as the number of traffic units, although the two units differ in many respects.

(2) *The operating expenses*, which depend upon the facilities for operation and the efficiency of the methods of operation, modified however by the volume of traffic and the peculiar requirements of particular traffic. Facilities are measured by miles of line, miles of track, number and tractive power of locomotives, number and capacity of freight cars, number of passenger cars and number of employees of the various grades. Efficiency of operation is measured, other things being equal, by the ratio between the units of operation and the units of traffic, and also, other things being equal, by the ratio between the gross earnings and the expense of operation. Units of operation are freight-train miles and passenger-train miles. The greater the ratio of tons to freight-train miles and the greater the ratio of passengers to passenger-train miles, the greater is the efficiency of operation. The lower the ratio of operating expense to gross earnings, the greater is the efficiency of operation.

(3) *The net earnings*, which are what is left of the gross earnings after the operating expenses and taxes have been paid. This remainder, plus the income from sources other than opera-

tion, constitutes the fund from which interest on funded debt and dividends are payable, and from which contribution is made to the surplus.

(4) *The capitalization*, the amount upon which the bondholders and stockholders expect return.

The relation borne by these various factors one to another in the progressive performance of the railroads of this country is shown by the following tables of percentages. As publication of collected statistics of the railroads of this country did not begin until a number of years after the close of the Civil War, and as the comprehensive presentations of the present day were attained only by gradual development, no one of these tables is based on information for any part of the period prior to 1871, and for many of the headings information is obtainable only for more recent years. Information for the years prior to 1889 has been compiled from Poor's *Manual*; for 1889 and subsequent years, from the statistics of the Interstate Commerce Commission.

During the decade from 1875 to 1885 the comparative increases in the different phases of railroad activity were as follows:

FACILITIES						INCREASE (PER CENT)	
Miles of line	.	.	.	.	.	72.38	
Locomotives	.	.	.	.	.	67.09	
Freight cars	.	.	.	.	.	113.85	
Passenger cars	.	.	.	.	.	23.32	
FINANCE							
Capitalization	.	.	.	.	.	77.61	
Gross earnings	.	.	.	.	.	53.57	
Net earnings	.	.	.	.	.	45.27	
Operating expenses	.	.	.	.	.	58.42	
Interest and dividends	.	.	.	.	.	57.93	

This decade of rapid extension of the railroads immediately followed the uniting of small roads serving a local traffic into through lines. These through lines were extended in advance of traffic, and new railroads were built into undeveloped regions. With the extension of the through lines was inaugurated the competition for long-distance traffic. Rate wars and rebates were at their height during the early years of the decade.

Then, owing to the steadying effect of the traffic associations, dividends increased until the volume of traffic fell with the minor depression of 1884. Of the increase in capitalization about two-thirds is accounted for by the cash value of new line and new equipment, leaving about one-third, or about \$1,200,000,000, to be accounted for by buildings and other structures, franchises and other assets, and the natural increase in the value of the properties in general, with whatever there may have been of "water."

The ratios of increase from 1885 to 1895 are as follows:

FACILITIES								INCREASE (PER CENT)	
Miles of line	.	.	.	.	.	.	.	41.45	
Miles of track	.	.	.	.	.	.	.	47.51	
Locomotives	.	.	.	.	.	.	.	38.46	
Freight cars	.	.	.	.	.	.	.	47.34	
Passenger cars	.	.	.	.	.	.	.	91.51	
TRAFFIC									
Ton miles	.	.	.	.	.	.	.	73.39	
Passenger miles	.	.	.	.	.	.	.	33.44	
Traffic units	.	.	.	.	.	.	.	66.00	
FINANCES									
Capitalization	.	.	.	.	.	.	.	21.34	
Gross earnings	.	.	.	.	.	.	.	39.19	
Net earnings	.	.	.	.	.	.	.	29.74	
Operating expenses	.	.	.	.	.	.	.	44.25	
Interest and dividends	.	.	.	.	.	.	.	27.42	

That during this decade there was more of intensive than of extensive growth is shown by the fact that the percentage of new line was little more than half as great as during the previous decade and was six per cent less than the ratio of increase of miles of track. Miles of line, miles of track, supply of locomotives and freight cars all increased in practically double the ratio of the increase of capitalization. It was toward the close of this decade that new and powerful locomotives and new and enlarged freight cars came into service, the increase in power per locomotive and capacity per freight car making the actual increase in equipment far greater than that indicated by the increase in numbers. There was a marked increase in the number



of passenger cars. The cost of additional track and equipment acquired during this decade exceeded the increase in capitalization, a fact which indicates that the cost was met in great measure from the earnings. The low ratio of increase indicates a hardening-down of capitalization, caused by this placing of earnings back into the properties and also by the scaling-down through receiverships and reorganizations following the panic of 1893. The earnings for the decade as a whole did not gain in proportion to the increase in facilities. The last year of the decade, however, was one of severe industrial depression, gross and net earnings each falling about twelve per cent below the amounts for 1893.

The ratios of increase from 1895 to 1905 are as follows:

FACILITIES	INCREASE (PER CENT)
Miles of line . . . . .	20.72
Miles of track . . . . .	29.29
Locomotives . . . . .	35.46
Freight cars . . . . .	44.76
Passenger cars . . . . .	22.96
TRAFFIC	
Ton miles . . . . .	118.78
Passenger miles . . . . .	95.26
Traffic units . . . . .	115.84
FINANCE	
Capitalization . . . . .	17.34
Gross earnings . . . . .	93.65
Net earnings . . . . .	98.45
Operating expenses . . . . .	91.62
Interest and dividends . . . . .	62.40

This decade also exhibits a greater proportion of intensive than of extensive growth, miles of track, supply of locomotives and freight cars all increasing in far greater ratio than miles of line. The extraordinary increase in the number of passenger cars during the preceding decade explains the low ratio of increase in this decade. The cost of the additions to facilities again exceeds the increase in capitalization. Indeed, the proportion of the earnings of the American railroads that was being turned back into the properties excited apprehension in foreign coun-

tries, and the English investors sent over an expert to examine into this disposition of the earnings and to ascertain if there were justification for it. He reported that the maintenance of the railroads and their development to meet the extraordinary increase of traffic that began with 1898 made imperative the expenditure of vast sums upon improvements and extensions. At this time the surplus capital of the country was pouring into industrial combinations, which were being formed upon a scale hitherto undreamed of. The expenditures for improvements made by the railroads out of their earnings tended still further to solidify the capitalization. This naturally elicited complaints from the stockholders, whose dividends were not augmented to an extent at all corresponding with the increases in traffic or in earnings.

The pressure for lower rates, the steady increase in taxes of all kinds, the rapidly increasing wages and the mounting prices for all material used by the railroads forced great economies in methods of operation. These were made possible largely by the powerful locomotives and the capacious freight cars. The traffic units carried per dollar of capitalization, which had increased 38 per cent from 1885 to 1895, increased 91 per cent from 1895 to 1905. The number of traffic units carried per mile of track increased 13 per cent from 1885 to 1895 and 66 per cent from 1895 to 1905. The number of traffic units carried per locomotive increased 21 per cent from 1885 to 1895 and 59 per cent from 1895 to 1905. The number of traffic units carried per employee increased 22.59 per cent from 1895 to 1905. This greater performance per unit of plant is also reflected in the ratio of the capitalization to the earnings. In 1885 it took \$10.15 of capitalization to produce one dollar of gross earnings; in 1895, \$8.84; in 1905, but \$5.36. The capitalization per unit of traffic was 13.4 cents in 1885, 9.7 cents in 1895 and but 5.3 cents in 1905. This result was attained notwithstanding that the average rate per ton per mile in twenty years had decreased 27.5 per cent.

The progressive efficiency of the American railroads, the progressive increase, both relative and absolute, in their contribution to the activity of the nation are shown by the fact that

the rate of increase in traffic carried was persistently greater than the rate of increase in capitalization or in earnings, notwithstanding the decreasing charge for transportation. These results are summarized in the following tabulation:

	1875 TO 1885	1885 TO 1895	1895 TO 1905
Traffic units: increase (per cent) . . .	—	66.00	115.84
Capitalization: increase (per cent) . . .	77.61	21.34	17.34
Gross earnings: increase (per cent) . . .	53.57	39.19	93.65
Net earnings: increase (per cent) . . .	45.27	29.74	98.45
Return to capital: increase (per cent) . . .	—	27.42	62.40
Rate per ton per mile: decrease (per cent). . .	—	20.00	8.70

In the vociferous discussion of the past few years so much has been said about the "fictitious" capitalization, the "over" capitalization, the "wind and water" in the capitalization of the railroads of the United States, that the statement that the capitalization per mile has been gradually diminishing will doubtless be received with incredulity. Yet that is the exact truth, as shown by the statistics published by the Interstate Commerce Commission. In connection with the tables of capitalization published in its annual volume of statistics, the commission states that, in so far as the given amount of capitalization includes bonds or stocks of railroads which are owned by other railroads, the total represents a duplication.<sup>1</sup> For example, the Northwestern Ohio Railway Company and the Pittsburg, Fort Wayne and Chicago Railway Company have each issued stock, which, however, is owned principally by the Pennsylvania Company. The Pennsylvania Company has issued stock which is in large measure supported by these underlying issues of the Northwestern Ohio Railway Company and the Pittsburg, Fort Wayne and Chicago Railway Company. All the stock of the Pennsylvania Company is in turn owned by the Pennsylvania Railroad Company. It is therefore manifestly a duplication to include the stock issues of the subsidiary companies as well as the total stock issue of the Pennsylvania Railroad Company. For another example, a majority of the

<sup>1</sup> *Cf.* Statistics of Railways in the United States for 1905, p. 55.

stock of the Mobile and Ohio Railroad Company is owned by the Southern Railway Company and is therefore covered by the stock of the latter company. It is therefore a duplication to list the entire stock of the Mobile and Ohio as well as the entire stock of the Southern in a table giving the capitalization of the American railroads. This, however, notwithstanding its statement just referred to, is what the commission does, making the average capitalization \$65,926 per mile for 1905. If from the total capitalization as given in the tables of the commission we deduct the amounts of duplicated capitalization, as given in the statistics of the commission, the average capitalization per mile for 1905 is found to be \$51,201 instead of over \$65,000. The average capitalization per mile for 1895 was \$52,676; for 1885, \$61,400; for 1875, \$59,593. In 1875 there was very little ownership of the issues of one railroad company by another and in 1885 the proportion was still small. This period of promotion and rapid extension doubtless knew more or less of watered capitalization, that is, if the capitalization be considered at par. It was the custom, however, to issue large amounts of stock as a bonus to induce investors to place their money in bonds, and these issues of stock, dependent upon future development for whatever value they might have, sold far below par. The receiverships and reorganizations following 1893 reduced the average capitalization per mile to \$52,676 in 1895. In the following decade the development of the "community of interest" led to very large purchases by this company and that company of the stock and bonds of other companies, and one effect was that the average capitalization per mile in 1905 was but \$51,201 at par. This low average is also in part accounted for by the extensions made out of earnings. In 1890, for every \$295 of gross earnings, one dollar was spent for permanent improvements; in 1895, the ratio was one dollar for improvements to every \$320 of gross earnings; in 1900, one dollar for every \$66; in 1905, one dollar for every \$63; and in 1906 one dollar for every \$49.

The relative decrease in capitalization, together with the tremendous increase in facilities and in improvements in operation, accounts for the fact that the ratio of the value of plant to

a given amount of traffic decreased 28 per cent from 1885 to 1895 and 45 per cent from 1895 to 1905. In view of these facts it seems impossible that there can at this time be any substantial amount of water in the capitalization of the railroads of the United States. Such over-capitalization as still exists is sporadic; and where water is still to be found it is being forced out by the receiverships and reorganizations that occur from time to time, just as the healthy body forces deleterious elements in the blood to the surface and then ejects them from the system.

For the decade ending in 1905 the railroads carried 115.84 per cent more traffic for 93.65 per cent more money, the volume of traffic therefore increasing 22.19 per cent more rapidly than the compensation for carrying it. The employees, dealers in supplies and others concerned in the operation received 91.62 per cent more compensation, while capital received but 62.4 per cent greater return. For the year 1907 the disposition by the New York Central Railroad of its income, dollar by dollar, was as follows: for salaries and wages, 38.2 cents; to dealers for supplies, *etc.*, 30.8 cents; for interest and rentals, 17.8 cents; for taxes, 3.1 cents; for dividend, 9.7 cents; for surplus, 4 cents.

The facts brought to light by this scrutiny—that the railroads have moved a greatly increased traffic at lower rates, that they have vastly increased their facilities with a relatively decreasing capitalization, and yet that their expenses for operation have increased about fifty per cent faster than the returns on their capital—demonstrate a progressive economy of administration from which their employees and the public have derived a far greater proportion of benefit than the bondholders and stockholders.

Another question of foremost importance is: what has been the effect of this economy upon the railroads? Although the record of their performance as disclosed by these statistics is that of constantly increasing achievement, every one knows that during the period from 1898 to 1907, the railroads of this country had to face increasing criticism and execration and a seemingly universal hostility. Shippers were not supplied with

as many cars as they desired nor as promptly as they desired them, shipments were subjected to long delays in transit, and there was one disastrous wreck after another. The popular antagonism found vent in laws enacted by congress and by many of the state legislatures—laws that increasingly impeded the operation of the already overburdened railroads. There were few to believe that the officers of the railroads, the men who in reality were accomplishing the magnificent results placed in evidence in this article, were doing the best that they could do. There were few to believe even their simple statement that, if anyone would show them how to produce better results under the limitations that bound them, they would be only too willing to avail themselves of suggestions.

The truth, however, is that the railroads, which had suffered severely from the depression following the panic of 1893, did not anticipate and were not prepared for the tremendous traffic that sprang from the renewal of business activity in 1898. Although new equipment was ordered and facilities were extended, the extraordinary volume of traffic was regarded by them, as by business men in general, as a transient rush of prosperity after the dam of depression had been broken down, and it was generally believed that the force of the movement would soon be spent. The mounting earnings permitted increased distribution among stockholders, many of whom had received for years little or nothing in the way of dividends, although they had seen surplus earnings put back into the railroads. The phenomenal increase of traffic each year was however exceeded by a yet more phenomenal increase the next year. Car and locomotive factories and rail mills became overcrowded with orders, and railroad employees, from general managers down to section men, were struggling with an ever-rising tide of traffic that threatened to overwhelm them. The results of their struggle have been indicated. But even a railroad man must be a blind partisan not to admit that, in the half-decade from 1900 to 1905, the railroads of the United States were unequal to the demand, or to deny that at times they weakened seriously under the strain. The figures tell the story. In ten years the traffic increased 115 per cent. This

was double or more than double the increase in facilities and about seven times the increase in capitalization. Had it not been for the panic of 1893 the ton miles for the decade ending 1895 would have increased at least 100 per cent. They did increase 73.39 per cent, and for the decade ending 1905 they increased 118.78 per cent. Speaking broadly, the freight traffic of this country increases about 100 per cent every ten years, and there is every likelihood that it will increase 100 per cent or more in the next ten years, a period of depression being more than made up by a return of prosperity.

Twenty years ago the traffic units were eighty billion a year, and preparation for a one-hundred-percent increase meant provision for an additional eighty billions. Now the traffic units are over two hundred and fifty billions a year, and preparation for a one-hundred-percent increase means preparation for an additional two hundred and fifty billions. It is not likely that it will be possible during the next ten years to reduce the ratio of the value of plant to unit of traffic in any such proportion as during the last ten years. Freight cars cannot be built any higher, without a change in the standard of overhead clearances throughout the country. They cannot be made any wider, for they will not pass on a double track. They cannot be made any longer, for they are now standardized in length to fit the loading and unloading facilities at elevators, warehouses, ore docks and so forth. Likewise the power of the locomotives cannot be increased except through intensive improvement. Therefore provision for a one-hundred-percent increase in traffic will more nearly approximate a one-hundred percent increase in facilities than heretofore. There must be extensive purchases of real estate for enlargement of yards and terminals.

If provision for a one-hundred-percent increase of traffic meant an increase of one hundred per cent in facilities, the existing railroad plant of the United States would have to be doubled. Let us assume, however, that the traffic increased by one hundred per cent can be handled with facilities increased by eighty per cent. Taking the cost of main-line track at \$30,000 per mile, other track at \$15,000 per mile, locomotives

at \$15,000 each, freight cars at \$1000 each and passenger cars at \$5000 each, it will be found that an eighty-percent increase in the track and equipment of 1905 would cost over eight and one half billions of dollars. The requisite real estate would probably cost another half billion of dollars, bringing the total expenditure necessary to provide for the traffic of the decade ending with 1915 to an average annual investment of nine hundred millions of dollars.

If this expenditure is made on capital account, the capitalization of the railroads of the United States will have to be increased to over twenty billion dollars. In 1885 the total return to the capitalization of the railroads was but 3.38 per cent, in 1895 but 3.55 per cent. In 1905, on the capitalization as given by the Interstate Commerce Commission, the return was 4.4 per cent; on the net capitalization as given in this article it was 4.9 per cent. For this year, moreover, 62.84 per cent of the total railway stock paid no dividends at all, and the average rate of dividends that were paid was less than six per cent. Of the total funded debt 78 per cent reaped a return which averaged less than six per cent. The entire surplus of all of the railroads of the United States was less than one-tenth of the annual expenditure that will be needed to keep them abreast of the traffic.

As shown by government reports, summarized by the writer in another article,<sup>1</sup> the net return to the capital invested in manufactures averaged 15.1 per cent for the year 1905, the net return to the capital invested in agriculture 9.8 per cent for that year. Into these two branches of our national industry, particularly into the manufacturing and the allied mining industry, capital was unhesitatingly poured. When, however, the overburdened condition of the railroads as a whole had become apparent to every one and they entered the market with propositions for hundreds of millions of dollars of new capital, the nation stood aghast at their temerity. When even the clogged and congested Pennsylvania Railroad sought to parallel its facilities between Pittsburg and New York, voices were not lacking to criticise what was called its rashness. The truth is

<sup>1</sup> Logan G. McPherson, "The Farmer, the Manufacturer and the Railroad." *North American Review*, November, 1907.



that the railroads did not begin to ask for new capital soon enough nor in amounts large enough. Had their requisitions begun with the resumption of business activity in 1898 and 1899, fewer mills and skyscrapers might, perhaps, have been built in the next half-dozen years, but the facilities of the railroads might have been kept well ahead of the demand. When they did ask, what did they receive? Bond issues even of stable companies could be sold only at a discount and in many cases only at a heavy discount. When the necessity for radical and unprecedented increase in the facilities of the railroads became imperative, rail mills and car and locomotive factories in their turn were overwhelmed with orders, many of which they could not fill for a year or even for two years.

If during the great prosperity that marked the year 1905 the railroads were able to earn less than five per cent, what must be the result with expenses increased—as they have increased since that time—and with a diminished traffic? It is a condition and not a theory that confronts the railroads. They must make ends meet, and they must provide for the future. Not only must they make returns on the capital in the existing plant, but they must demonstrate the possibility of making returns that will enlist capital in the doubling of that plant. This must be done, not merely that the investment of capital may be profitable, but that the transportation needs of the country may be met.

To whatever extent the waterways may be developed, they cannot supplant the railroads upon which the greater portion of the burden of transportation now falls and of necessity will continue to fall. In substantiation of this statement it is necessary only to remind the reader that, particularly in the busier Northern states, canals and rivers are frozen over throughout a considerable portion of the year. It is necessary only to look at the network of railroad lines on the map of any of the states and to consider what would have to be done before waterways could even fractionally take their place. Holland would no longer be the typical land of dikes and ditches. How could canals supplant the service now rendered to mills and warehouses into which the tracks of the railroads penetrate?

If the expenditure of the railroads cannot be lowered, their

revenue must perforce be increased. Revenue may be increased through an augmentation of the volume of traffic or through an advance in rates. If during the prosperous year 1905 and at the rates then prevailing the railroads could not pay five per cent on their capitalization and could not obtain new capital except at heavy discount, what are they to do when confronted with the necessity for additional capital in vast amounts?

Compared with the average of the decade from 1890 to 1899, the average wages for 1905 were 14 per cent higher and the average hours of labor per week 4.1 per cent lower. Food advanced an average of 12.4 per cent and all commodities an average of 15.9 per cent. The average rate per ton mile of the railroads decreased 8.8 per cent. The men who ship the larger portion of the freight say, almost without exception, that railroad rates are low. The docket of the Interstate Commerce Commission since the enactment of the Hepburn law shows few complaints of importance, and more of these have been decided in favor of the railroads than in favor of the complainants. The rates of freight do not affect the retail prices of the great staple commodities of daily and general use. If the railroads of the country find it necessary to advance their rates, in order to obtain the capital requisite to equip them to move the traffic of the country, there should be no objection from any one.

There are many freight rates that cannot be increased without impeding, or, perhaps, in some cases, stopping, a flow of traffic. There are many freight rates that can be advanced a fraction of a mill or even a fraction of a cent a mile without burden to the producer or the consumer, but with an immediate benefit to the railroad companies that will, in turn, inure to the benefit of every producer and every consumer in the United States. Not only is adequate transportation necessary to the material welfare of every producer and every consumer, but of many kinds of merchandise the railroad companies are the largest purchasers in the country. When the railroads are prosperous, the good effects ramify throughout industry in general. When they are crippled, allied industries are crippled, and the baneful effects are transmitted along every nerve fiber of the industrial organism.

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## THE CRISIS AND PANIC OF 1907

**I**N this article it is my purpose, not to narrate the interesting events of 1907, but to state briefly what seem to be the causes and conditions which made those events practically inevitable, and to consider what may be done to make such events less liable to occur in the future.

As there is some confusion in the popular use of the terms crisis and panic, it seems best to state clearly the sense in which they are used in this paper. A crisis is the culmination or turning-point of a period of prosperity, and is always followed by a period of liquidation, during which business contracts and the prices of commodities and securities decline. It is essentially an event connected with the use or abuse of capital. A panic is a temporary paralysis of a country's credit system and may be caused by any conditions which undermine the confidence on which credit is founded. A crisis is not always attended by a panic, and panics sometimes occur in years not marked by crises. For example, in the summer of 1903 there was a crisis in the investment of capital in corporate enterprises, but there was no panic. On the other hand, in 1896, near the end of the long period of liquidation following the crisis and panic of 1893, President Cleveland's Venezuela message caused a small stock-market panic in Wall Street. When a crisis is not attended by panic phenomena, the course of the subsequent period of liquidation is normal and entirely satisfactory: the necessary readjustment of prices and wages is made, speculative enterprises collapse, and weak business houses go into bankruptcy, but concerns which have managed their affairs with prudence suffer only a temporary reduction of profits. When panic attends a crisis many really solvent business houses are crushed. Crises are doubtless inevitable, for the conditions leading up to them could be prevented only by a more than human combination of sagacity and discretion. Panics, however, are unnecessary; they are almost invariably the product of remediable defects of the credit system.

The crisis of 1907 took place in January, the panic in October. The crisis was a world-wide affair, being felt in all countries where gold was the standard money. The panic was a local manifestation, being confined to the United States.

Of the economic forces at work during the last decade, that which will probably appear to historians the most important is the great increase in the gold supply with the resultant rise of prices. The facts are too well known to need re-statement. Beginning in 1887 there was a steady increase in the world's annual output of the yellow metal, and since 1897 the production has been at a rate which would have caused dismay had it been predicted ten years before. In 1890, according to statistics compiled by the director of the mint, the world's supply of gold available for monetary use was less than \$4,000,000,000. In 1907 it exceeded \$7,000,000,000. At the same time, based upon this gold, there was a gigantic expansion of banking credit. In the United States, bank deposits (including those of savings banks) increased between 1890 and 1907 from \$6,000,000,000 to \$19,000,000,000, and practically all of this expansion took place after 1897. According to computations made by the comptroller of the currency the item of individual deposits in national and state banks increased from \$7,000,000,000 in 1900 to \$13,000,000,000 in 1907. During the same period, the advance beginning in 1897 and ending in January, 1907, the average prices of commodities in gold-standard countries rose some forty per cent. In the stock market the upward movement of prices during those ten years was still greater. According to computations made by Mr. James H. Brookmire of St. Louis, who bases his calculations on the quotations of twenty representative railroad stocks, the lowest point was touched in December, 1896, when the average price was 41. From then until the end of the Boer War in 1902 there was an irregular advance to 130. In the fall of 1902 began a decline in stocks which continued until September, 1903, the lowest point which these stocks touched being 88. Then began a more rapid upward movement, continuing through 1904 and 1905, the highest point, 138, being reached in January, 1906. Throughout 1906 the prices of these stocks barely held their

own. A rapid downward movement began in January, 1907, until in March they touched 98; then they advanced until July, when a decline began which finally carried them during the October panic down to the lowest point of 82.

It is very difficult to escape the conclusion that all this advance of prices and expansion of credit must in the main be attributed to the great increase in the world's stock of gold. This prosperous decade had much more than its share of untoward events which were calculated to restrict enterprise and hold credit in check. There were, for instance, our own war with Spain in 1898, England's war against the Boers in 1900 and 1901, the Russo-Japanese War in 1904 and 1905, the anthracite coal strike in 1902, and the Baltimore and San Francisco conflagrations. Despite all these events and others of a similar character, which tended to waste capital and destroy the confidence of conservative men in the business outlook, the tide of prosperity rolled on almost without check until the beginning of 1907, prices advancing, the stock market booming, bank clearances swelling, the average man convinced that good times, being deeply rooted in natural conditions, would persist so long as the sun shone and the rains fell.

This prosperity was by no means confined to the United States. It existed in Canada on the same scale as here, and in a lesser degree throughout Europe and in the countries of South America, in which large sums of European capital were invested. For example, the loans of Canadian banks rose from \$225,000,000 in 1896 to \$712,000,000 in 1907. The total bank clearings of the United States increased from \$51,000,000,000 in 1896 to \$160,000,000,000 in 1906; the clearings at London rose from £7,500,000,000 to nearly £13,000,000,000; and the Paris clearings from 7,000,000,000 to nearly 18,000,000,000 francs. This growth in bank clearings is a reflex, of course, of the great increase in the production and exchange of goods, the statistics of which need not be presented here.

During all this marvelous prosperity, as in all previous similar periods, silent forces were at work that were destined to bring about a reaction. Foremost among these was the in-

sistent demand for capital for conversion into fixed forms. There are no reliable statistics showing total capital outlays in this country or in Europe. We know, however, that in the United States the capital needs of corporations, as indicated by the listing of stocks and bonds on the New York Stock Exchange, averaged over a billion dollars a year, the total in 1901 alone having been two and a half billion dollars. These figures, however, mean very little. What is much more significant is the fact that the absorption of capital during the last ten years in railroads, in the construction and enlargement of industrial plants, in subways and tunnels, in the development of South American enterprises, combined with the positive destruction of capital in three very costly wars, caused a marked advance in the rate of interest and a corresponding decline in the prices of first-class bonds. In 1897 prime commercial paper sold in New York City at from three to three and one-half per cent. In 1904 it sold at from four to five per cent. In 1906 and 1907 the rate was often seven per cent, and the average was fully six per cent. The Bank of England, except for brief intervals, has maintained rates ranging from four to six per cent for the ten years, and finally in 1907 it advanced its rate, as the result of the panic in the United States, to seven per cent. The rates of interest at other European financial centers were correspondingly high. The most spectacular evidence of the shortage of investment money in Great Britain was furnished by the decline of consols to 83.

In the United States the extent to which capital was absorbed by long-time investments is shown by the statistics of banks and trust companies. According to Mr. Muhleman,<sup>1</sup> the national and state banks of the United States increased their ownership of stocks and bonds from \$50,000,000 in 1892 to \$487,000,000 in 1907, while the amount held by trust companies increased from \$142,000,000 in 1894 to \$785,000,000 in 1907. Furthermore, the loans of trust companies, which are largely secured by stocks and bonds, increased in the same period from \$374,000,000 to \$1,602,000,000. When a bank

<sup>1</sup> *Monetary and Banking Systems*, 1908, pp. 81, 132.

lends upon stocks and bonds as collateral it is encouraging the investment of capital in corporate enterprises. Practically the bank's own money is being locked up in long-time investments.

During 1905 and 1906 there came to light evidence that a considerable portion of the public was willing to take long chances in real estate, in mines and in numerous other enterprises of a speculative nature. This tendency did not amount to mania and was by no means confined to the United States. In Europe, in South America, in Japan and in Egypt there were signs that people with money were dissatisfied with the comparatively small returns yielded by high-priced railroad and industrial stocks and were seeking to get rich quickly by participation in schemes of problematical outcome. It is doubtful if this speculative diversion of loanable funds deserves to be regarded as an important antecedent condition of the crisis, yet it was probably a contributing cause.

Meantime the banking situation was steadily growing worse. In 1897 the cash reserves of commercial banks and trust companies in the United States amounted to about 18 per cent of the net liabilities. Thereafter there was a steady decline until 1907, when the cash reserve had dwindled to 10 per cent. Mr. Muhleman in a new edition of his *Monetary and Banking Systems*—a most intelligent and satisfactory manual of financial statistics—gives on page 107 a table showing a decline in total bank reserves from 17.9 per cent in 1897 to 11.3 in 1907. In the same table he shows that the amount of money and bank deposits "in the hands" of the people increased during this period from \$4,000,000,000 to over \$11,000,000,000. The decline in the ratio of banking reserve was due principally to two circumstances: (1) the growth of trust-company deposits, supporting which there was a reserve of barely five per cent; (2) the relatively smaller cash reserves kept in the country banks, many of these institutions having been tempted by high rates of interest to invest heavily in call loans and time paper in New York city. It is true that the amount of cash in the vaults of country banks increased after 1897, yet their liabilities grew in greater proportion. This decline of the country's banking reserve is regarded by

some as a sufficient explanation of the crisis. In my opinion, however, it can be regarded merely as evidence that the lending power of the banks was severely strained, and that any further great extensions of credit were therefore impossible. The country's low bank reserve in 1906 certainly meant that the country's business could not go on booming and expanding as it had done in the preceding years, but it did not necessarily presage disaster. The situation, however, was bad enough to make every conservative man careful as to his ventures. If in 1906 the banks of the country could have had competent leadership and could have been made to see the necessity for the careful husbanding of their resources and for the restriction of their advances upon high-priced collateral, the year 1907 would probably have passed without any great financial shock or serious loss to business interests. Unfortunately, however, there was no leader.

Another weakness in the banking situation lay in the relative decline of the ratio of capital and surplus to liabilities. The banking laws in this country do not require that a bank's capital shall bear any definite relation to the amount of its liabilities, yet from some points of view such a requirement would be more reasonable and more useful than the well-known reserve requirements. As a result, our banks are in the habit of expanding their business without regard to the amount of their capital investment, the latter seldom being increased except when the directors believe that in this way the institution can win greater favor with the public. After 1897 there was considerable increase in the total of banking capital and surplus in the United States, but it was not proportionate to the immense expansion of banking liabilities.<sup>1</sup>

<sup>1</sup> The following table shows changes in the ratio of capital to liabilities in the case of national banks between 1897 and 1907. The figures indicate millions of dollars.

	1897	1907
Capital .....	642	896
Surplus .....	247	548
Undivided profits.....	86	186
Total capital account.....	975	1,630
Deposits (individual) .....	1,669	4,319



If all the conditions above summarized are borne in mind, and it is remembered that the advance in the cost of living had outrun the increase in wages, so that the lion's share of the new wealth created had gone into the pockets of entrepreneurs, bankers, brokers and stock speculators, it will seem that a period of reaction and quiet was inevitable. Among the plain people of the country the farmers were the only class decidedly richer in 1907 than in 1897. Their crops had been good and had been sold at high prices. At a distance from the contagion of extravagance prevailing in the cities, they had in a measure maintained the economies taught them during the hard times from 1893 to 1897. In the cities, on the other hand, the wage-earning and salaried classes, as their incomes grew, had increased their expenditures, partly from necessity and partly because a higher standard of living seemed justifiable. This situation manifestly could not continue forever. The prices of articles of luxury in demand among the rich rose above the normal, and were certain to decline the moment the unusual profits of enterprise and speculation began to cease. On the other hand, the prices of the necessities and comforts of life

Loans and discounts .....	1,898	4,678
Total liabilities.....	3,446	8,390
Bonds held against circulation.....	228	567
Ratio capital, surplus <i>etc.</i> to deposits .....	58	38
Ratio capital, surplus <i>etc.</i> to loans .....	51	35
Ratio capital, surplus <i>etc.</i> to total liabilities .....	28	19
Percentage of capital in bonds .....	34	63

In 1897 the total capital investment of bank stockholders equalled 28 per cent of total liabilities; in 1907 it was only 19 per cent. The increase of the capital investment in bonds to secure circulation from 34 to 63 per cent cannot be viewed with satisfaction, for it indicates a relative decline in the banks' control of quick assets, their power to satisfy the demands of depositors being thereby lessened.

Between 1894 and 1907 the capital investment of state banks increased from \$346,000,000 to \$753,000,000, and the deposits from \$658,000,000 to \$3,069,000,000; the ratio of capital to deposits declining from 52 to 24. The trust companies make a better showing. Their capital and surplus increased from \$172,000,000 in 1894 to \$674,000,000 in 1907, and their deposits from \$471,000,000 to \$2,062,000,000; the ratio of capital to deposits declining only from 36 to 32.

Taking together the totals for national banks, state banks and trust companies, we find that the percentage of capital and surplus to total assets declined from 28 in 1894 to 19 in 1907.

could not long be maintained above the level warranted by the incomes of the working classes.

The crisis which began in January, 1907, was the effect primarily of the exhaustion of capital funds by wars, industrial and general business requirements and speculation; and it was more severe in this country than elsewhere because our banking institutions had made unduly heavy advances on securities, had suffered their cash reserves to dwindle to the danger point and had not properly increased their assets by the enlargement of their capital and surplus accounts. The crisis was marked at the start by a rapid decline of stocks in the month of January, 1907—a decline that was not checked until the end of March. This drop of stocks, which has passed into history as the “silent panic,” was due in the main to the fact that certain large interests were obliged to sell and that there were no buyers willing or able to pay the high prices at which stocks were quoted at the beginning of the year. During 1906, on account of needs that seemed imperative, railroads and other corporations had subjected the money market to intense strain by their issues of new stocks and bonds. As business was active in Europe, the Bank of England had been forced to raise its rate of interest to six per cent in order to protect its gold reserve. Railroad earnings had been large during 1906, but Congress had passed the Hepburn Rate bill and among investors there was a fear that the future of railroads was under a cloud. The important factor, however, was the shortage of capital as compared with the vigorous demand for it from merchants and manufacturers all over the country. The country banks, in order to take care of their home customers, were obliged to drop their loans on securities, and these had to be sold by the owners, for the New York banks were unable to make advances on them.

The situation was, in many respects, similar to that which prevailed in 1903, when the New York banks found themselves burdened with collateral of declining value. There had then been two years of great activity in the stock market and large issues of the stocks of industrial corporations had been underwritten and put upon the market. The financiers had overestimated the capacity of the public to digest securities. In

other words, there was then a shortage in the supply of investment funds and an imperious need for money in business, which made necessary the withdrawal of support from Wall Street. That crisis was temporary in its effects, being confined mainly to the financial market. Nevertheless, for a year the country's business ceased to expand, some industries were obliged to curtail operations, and the total of failures was unusually large.

The crisis of 1907, if our banking system could have stood the strain, would probably have been only a little more severe than that of 1903. In 1907 the country's business was more expanded; the prices of securities and of commodities were higher; debts were bigger; there were in existence more new enterprises whose prosperity depended on the continuance of boom times; and more money was locked up in unproductive real estate and worthless mining stocks. All this meant that a more painful and probably longer period of liquidation was necessary than in 1903; but there should have been no panic; no sudden or general shut-down of factories, no long list of failures, no army of unemployed men. We should have had a year or two of enforced economy, of sagging commodity prices, of part-time employment of labor and of reduced dividends, but not a year or more of worry and distress.

There are several good reasons why this critical year might have been lived through without panic and without a single sound concern being pushed to the wall. I shall stop to mention only two of them.

First, the great industries of this country are in very strong hands. Whatever may be the evils of industrial combinations, there can be no doubt about one of their great benefits: they bring the greatest industrial wisdom the country possesses to bear upon the employment of capital. We may not approve of all their policies nor of some of their methods, yet we must admit that the men who are managing the dozen great railroad systems of the United States and the great industrial combinations in steel, copper, leather and other important staples, are vastly better qualified for their work than were the thousands of small men who were in control, and were working at cross purposes with one another, in the same fields twenty years ago.

This is a matter which the public does not generally understand. Everybody admits that capital is timid; yet the average man fails to see that, since the timidity of capital must make it eager to avoid unnecessary risks, it must follow that the large owners of capital will be willing to entrust the management of their affairs only to men of the clearest heads, strongest wills and highest characters. The day of the financial pirate and freebooter in the United States has come almost to an end. This is not recognized by the American people, and President Roosevelt may have some doubt about it, but I, for one, am convinced that it is so. And it is because the great manufacturing and transportation interests of this country are now under the direction of our ablest business men, who know and would avoid the evils of fluctuating prices, panics and unemployed labor, that I believe the capital and stock market crisis of 1907 would have brought no great shock to this country if our banking and currency system had not been inherently and fundamentally unsound.

A second great strengthening force, which was lacking in 1893, is found in the financial condition of the agricultural classes. Twenty years ago the western farmer was carrying heavy mortgages. To-day he belongs to the capitalist class. Farmers have profited by the rise of prices during recent years: they have gotten out of debt and have saved money. The panic of October caused very little disturbance in rural communities, and the subsequent depression of industry has given the farmer little concern. That the agricultural classes are in good condition is indicated by the fact that bank clearings in the smaller western and southern cities were almost as large in June, 1908, as during the same month in any previous year. As farming is our basic industry, so the farmer is our most important consumer. Since he is now in an easy condition, our industries are not likely to suffer long from a weak demand for their products.

The reader will be justified in inferring from the foregoing that I do not regard the panic of 1907 as a great industrial and financial cataclysm, such as were the panics of 1873 and 1893. I certainly do not. On the surface, the events of 1907 were

more startling, more spectacular, more unexpected than the events of either 1873 or 1893. There was a greater fall of prices in the stock markets; rates of interest here and in the great centers of Europe were lifted higher; there were more evidences of popular excitement, more runs upon banks, larger issues of emergency currency, more hoarding of money and a longer period of bank suspension. All these phenomena, however, are superficial. They can be produced at any time by unreasoning fright. They tell no story whatever with regard to the fundamental conditions of trade and industry.

The panic itself was the product of a combination of circumstances: the exhausted lending power of banks, their lack of organization and unity, the crop-moving demand for cash and, finally, a public with nerves set on edge by the insurance scandals, Mr. Lawson's romance about the "system," President Roosevelt's tirades against predatory wealth and various dire prophecies uttered by leaders in financial and industrial affairs.

Among the panic-producers we must also reckon the currency reformers. It is astonishing how little the average business man knows—or did know two years ago—about the way banks are run. About two years ago the newspapers began to take an interest in the currency. Their editorials and articles, showing how dependent every bank is upon the solvency of other banks, how helpless all would be in case of a panic, and how the magnificent total of their deposits represents a gigantic indebtedness created by loans and many times exceeding the amount of cash in the country, undoubtedly possessed for many readers an unsuspected "news" value. "What would happen if all the depositors wanted their money at the same time?" That question was in people's minds more than ever before, and there was only one answer—panic.

In a country having a model banking system—such a system as experience has thus far shown to be best—no combination of evil conditions could cause general loss of confidence in banks. On the other hand, under the banking system of the United States, no augmentation of cash reserves and no guaranteeing of deposits will save us from panic. Unless the reserves equaled one hundred per cent of deposits, in which case

the bank would cease to be a credit institution and become a mere safe-deposit vault, the time would come when frightened people would question the ability of the guarantor and insist upon the conversion of their deposits into cash. Our banks had an abundance of cash last October, but millions of it were hoarded where it was not wanted, and the other millions were so scattered among 16,000 institutions that there was weakness and terror everywhere and strength and confidence nowhere. If, when the Knickerbocker Trust Company closed its doors, our bankers had displayed confidence and had adopted a liberal policy toward borrowers, the day might have been saved: or if the Clearing House banks of New York had supported the Knickerbocker Trust, as the Bank of England supported the Barings in 1890, there would probably have been no panic. However, we have no right to blame the country banks because they grabbed all the money in sight, nor the New York banks because they let the Knickerbocker go down. Both banks and depositors were in the meshes of a system, not the boggy system of Mr. Lawson, but an artificial, law-imposed system, which made it impossible for the strong to succor the weak or for the weak to utilize their own resources in self-defence.

The remedy lies, not in tinkering up the present system, not in compelling country banks to carry larger cash reserves in their own vaults, not in a law compelling city banks to accumulate large reserves in the spring and summer, but in the creation of a new system of banking, of which existing banks shall be coördinate, independent units. The October panic made perfectly clear two great banking needs: (1) an elastic currency; (2) financial solidarity.

By elasticity of the currency nothing more is meant than that the banks, or some of them, should possess the right to utilize their credit as a common medium of exchange. Fortunately for the banks, and for business interests as well, the American people are not at all discriminating or particular in their notions as to the meaning of the words cash and money. That was proved during the panic by the cheerful alacrity with which they absorbed the emergency currency of small banks, clearing

houses and business corporations. That our banks should have the legal right to do what they did outside the law during the panic is now pretty generally admitted. How that right can be given them without raising the menace of inflation is the question to be solved. It is not easy to solve. A banking circulation cannot be elastic unless the country's currency is at all times saturated with bank notes, and not then unless the banks are unable in ordinary times to get into circulation all their authorized quota of notes. As the people of the United States are now using nearly a billion dollars of paper "money," all of which is good in banking reserves, being directly or indirectly redeemable in gold, it is evident that any scheme to create an elastic currency to be issued by national banks must take into account the danger of inflation resulting from the substitution of bank notes for this billion of "lawful money." It was one of the merits of the Fowler bill—favorably acted upon last winter by the House Committee on Banking and Currency—that it recognized and sought to avoid this peril. The bill aimed so to enhance the privileges and advantages of national banks as to make probable the nationalization of many state banks and trust companies and the impounding in their reserves of a large part of the "lawful money" now in the hands of the people. Critics complained of the complexity of this bill. Complex it certainly was; but its complexity was no greater than that of the problem it aimed to solve, for it sought to obtain both elasticity and security merely by amendment of the present system.

There is only one simple, sure and safe way out of our financial wilderness, and that is the way pointed out by the special currency committee of the New York Chamber of Commerce in 1906, namely, a central bank of issue under government control. Of such a bank the greenbacks and silver certificates would essentially be note liabilities, for it would be responsible for their redemption in gold. Its branches, taking the place of the present sub-treasuries, would collect and disburse moneys for the government without interference with the loan market. To the banks it would be an instrument for the immediate conversion of prime assets into cash. To the people, on account of its immense reserve of gold, its note-issuing power and its

prestige as a government institution, it would seem an indestructible bulwark of finance, an unassailable guardian of national solvency. It is frequently objected that the United States has twice experimented with such a bank, and that both experiments were unsuccessful. As a matter of fact, the first and second banks of the United States were not government banks. They were private institutions endowed with valuable special privileges, and they failed to win the undivided support of the public because of the possibility that they might be administered solely for the advancement of the political and financial interests of private citizens. Our experience with these two banks should warn us against the adoption of the Bank of England as a model, but it furnishes no evidence whatever that an institution like the Bank of France would not be in accord with our political conditions as well as beneficial to our financial and business interests.

The Vreeland-Aldrich compromise, the latest effort of Congress at the improvement of the National Bank Act, promises very little of good or evil. Its good feature is its recognition of commercial paper as a suitable basis for banknote issues, but the machinery provided for getting out the emergency currency is so cumbersome and the tax on the notes so heavy that the act will probably prove of little avail in lessening the financial stringency of the crop-moving period. As a shield against currency panics it will probably prove a complete failure. In fact, it weakens rather than strengthens the situation of the banks in a panicky time. Last fall, the law providing no way of relief, the banks promptly put forth an emergency currency less costly than the Vreeland-Aldrich notes and quite as acceptable in the localities where they were needed. The law, furthermore, is defective in that it fails to provide a way for the voluntary withdrawal of banks from a "national currency association," so that a bank that has once availed itself of the privileges of the act must, even though it retire all its own notes, continue liable in part for the notes of other banks. This defect will doubtless keep some of the strongest banks from even testing the doubtful advantages of this act.

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## THE BRITISH SOCIALIST LABOR PARTY

**A**T the general election in January, 1906, at which the then newly formed Campbell-Bannerman administration was returned to power, fifty-seven Labor representatives, of three different schools, were elected to the House of Commons. Twenty-nine of these were of the Independent Labor party, which has since become known as the Socialist group. Fourteen were miners' members and formed what has now come to be known as the Trade Union group. The third group, also of fourteen, was known as Liberal Labor, from its close and official connection with the Liberal party in and out of Parliament. The history of Labor representation from the election of Macdonald and Burt in 1874 to the return of these fifty-seven members at the last general election was briefly sketched in this journal two years ago;<sup>1</sup> and the purpose of the present article is to continue that history by tracing the development in this parliamentary Labor movement that took place between the opening of the Parliament of 1906, with the late Sir Henry Campbell-Bannerman as premier, and the incoming of the Asquith administration, April 8, 1908.

All three Labor groups obviously had their influence on the legislation and the administrative action of the Campbell-Bannerman government, in which the old-line Labor group was directly represented by John Burns, president of the Local Government Board. It is, however, chiefly with the Socialist Labor group that I am here concerned. This group is singled out because, during the two years and four months of Campbell-Bannerman's premiership, its strength was increased from twenty-nine to thirty-two, and it came to be regarded, in and out of Parliament, as the embodiment of the new independent and aggressive Labor movement in British politics.

From the first there were cordial relations and a working agreement between the Trade Union group and the Socialist

<sup>1</sup> Edward Porritt, "Party Conditions in England." *POLITICAL SCIENCE QUARTERLY*, June, 1906, XXI, 206-236.

Labor group. The conditions of the agreement were that the two groups should act together on labor questions, should meet monthly to consider the basis of common action in Parliament, and should not oppose each other's candidates at elections.<sup>1</sup> At one time there were expectations that the two groups would join forces and work as one organization in the House of Commons. But from 1906 to the end of the Campbell-Bannerman administration in April, 1908, the Socialist group was the only one of the Labor groups that followed the long-standing precedent of the Irish Nationalists and permanently established itself on the benches below the gangway on the opposition side of the chamber. From the beginning of the Parliament of 1906 the Socialists have had their own House of Commons organization. It is patterned on that of the Nationalists. Keir Hardie was at the head of the Independent Labor movement from its beginning in 1899 until the end of the session of 1907. At the beginning of the session of 1908 he retired from the parliamentary chairmanship, owing to ill-health, and was succeeded by Arthur Henderson, a moulder by trade, who has represented the Barnard Castle division of the county of Durham since 1903. The group has its own secretary and its own whips; and, unlike the members of the Liberal Labor group, its members do not go into council with the Liberals and do not receive government whips. In and out of Parliament they act as an independent party; so much so that, on thirteen or fourteen occasions since the general election of 1906, they have opposed Liberal candidates at by-elections, either carrying the contested seat for their candidate, throwing it into the possession of the Conservatives, or reducing the majority of the government candidate.

*Socialist Labor attitude towards the House of Commons*

There have been Labor members of the House of Commons since 1874. In the short-lived Parliament that was dissolved on the Home Rule bill—the Parliament elected in 1885, after the extension of the franchise to the working classes in non-

<sup>1</sup> Cf. Report of Conference, Independent Labor Party, at Hull, April 21, 1908.

parliamentary boroughs—the number of these Liberal Labor representatives went up to ten, and in the Parliament that was elected in 1892 there were sixteen; but until 1906 there had never been a large group of Labor representatives independent of both the two historic political parties. During the session of 1906 there was consequently keen interest in the attitude of the Socialist Labor group towards the House of Commons itself, and also towards the Liberal party and the government. With some politicians this interest was sympathetic and friendly. With others there was a hope that the Socialist group would adopt tactics similar to those brought into play by the Nationalists between 1878 and 1886, especially in the early years of Parnell's leadership, when Biggar was closely associated with Parnell in the parliamentary struggle of the Nationalists. There was an expectation that the aggressive spirit of the Socialists would impel them to make themselves a nuisance in the House; that they would disregard its traditions, adopt tactics that would jar on the Commons and on the country, and thereby bring discredit on the new labor movement.

These expectations were not realized. Although not more than three or four members of the Socialist group had been of the House before 1906, the group, as a whole, adapted itself at once to House of Commons ways and usages, and its members were quick to master the rules of procedure. In the sessions of 1906 and 1907 there was no obstruction by the Labor men. There was no undue eagerness on the part of any members of the Socialist group to attain prominence in the House and country by frequent intervention in debate. The discipline of the group would have checked any such tendency had it appeared; for it is the rule that the one or two members most practically conversant with a subject shall be deputed to express the views of the group. The specialization thus brought about and the moderation exercised by the group, as regards intrusion on the time and attention of the House, have so far answered well. The chosen representatives of the group have secured the ear of the House and the attention of the government; and, moreover, this policy of the careful selection of speakers has tended to fuller reporting of their speeches in the daily news-

papers than would have been the case if no such discipline had been exercised, with a resulting gain to the Socialist propaganda in the constituencies. Neither in England nor in Scotland is there a daily newspaper that gives editorial support to the Socialist Labor movement. The only newspapers of the party are the *Labour Leader* and the *Clarion*, both published weekly, and a few weekly propaganda journals which have only local circulations. But the growing strength of the movement in and out of Parliament makes the reporting of the speeches of the Labor members in the House of Commons incumbent on those London and provincial newspapers which still aim to give full and complete records of political thought and movement.

As regards the position in the House of Commons which the Socialist Labor group has made for itself by these methods there is no lack of testimony. "Most of the Labour members," wrote the parliamentary correspondent of the *British Weekly*, before the session of 1906 had come to an end, "are liked by the House. They are frank and obliging, and have remarkably little rancour. At first some of them were inclined to be noisy in their interruptions; but they have since adopted the parliamentary tone."<sup>1</sup> Within a few days after this commendation appeared in the *British Weekly*, one of the ministerial whips—A. O. Murray, the Master of Elibank—also paid a tribute to the Socialist group, then led by Keir Hardie.

They were [he said] able, clever men, and great parliamentarians. They worked together; they were assiduous in their duties; they had studied economic questions; they knew what they wanted; and they were men who, however he might disagree with their opinions, had earned respect in the House of Commons because their conduct in that chamber had been in accordance with the highest and best parliamentary traditions.<sup>2</sup>

In the early days of the session of 1907 the parliamentary correspondent of the *Tribune* wrote:

The discipline of the Labour party is wonderful. They reserve their activities for matters on which they can speak with authority, and the

<sup>1</sup> *British Weekly*, August 9, 1906.

<sup>2</sup> *Tribune*, London, August 27, 1906.

oversight of every section of the political field which concerns them is deputed to the member who knows most about it. In a word they choose their own foremen. Added to all this, they have shown a fine facility for adapting themselves to the traditions of the House. They have a wise regard for its habits; they do not presume on their success; they even, occasionally, restrain their inclination to interrupt speakers who attack them. They reap their reward in the esteem of a House, which is gentlemanly in all its instincts, and infinitely prefers a labourer in earnest to a lord with affectations.<sup>1</sup>

None of these tributes to the place which the Socialist Labor group has made for itself in Parliament is from men or newspapers in sympathy with the movement. They are all from men who are of the Liberal party—men who fear that in the constituencies the Socialist Labor group will continue to draw electoral support which, in the absence of an independent progressive party, would be thrown to Liberal candidates.

*Attitude towards the Campbell-Bannerman government*

The attitude of the Socialist group towards the Campbell-Bannerman government can be judged from the utterances of the members of the group, but best of all from its aggressive action at the by-elections. In the House of Commons the party followed the line of policy which was decided upon when its leaders were busy with their preparations for the general election of 1906. One of its foremost members then declared that the attitude of the party to a Liberal government would be

one of independent though friendly coöperation, not generally, but on every occasion on which the Government was promoting legislation acceptable to the Labour party. On the other hand no consideration for the fate or fortune of the Government would prevent the Labour party from opposing to the extent of its power any proposal of the Government which was not acceptable to it.<sup>2</sup>

Midway through the session of 1906, by which time the Socialists were opposing Liberal candidates at by-elections,

<sup>1</sup> *Tribune*, London, March 25, 1907.

<sup>2</sup> "The Labour Party and the General Election." *The Independent Review*, August, 1905.

another member of the party restated its position towards the government.

The Labour party would not throw out the Government because they did not introduce measures to suit them—they would try to improve the measures. The Labour party was a separate party in the House, and the Government knew that their position in the House was to watch them and to improve their measures.<sup>1</sup>

On other questions than those directly affecting labor the group took a line of its own. In the session of 1906, it went into the division lobby against the government and carried with it a number of Radical members who sit on the government benches, but who at times act with the Labor groups. This division was on a motion by Keir Hardie, to put the salary of the secretary of state for India upon the estimates, so as to give the House of Commons more control over Indian affairs. The Radicals who had voted with the Labor men were admonished by the Liberal whips; and again in the session of 1906, after a number of Liberal and Radical members had gone into the opposition lobby with the Labor men on their Trades Disputes bill, they were told by the whips that the attention of the Liberal associations in their constituencies would be called to their desertion of the government.<sup>2</sup> In the session of 1907 one of the most important measures not directly connected with labor was the bill of R. B. Haldane, secretary of state for war, abolishing the old organization of the auxiliary forces—the militia, the yeomanry and the volunteers—and reorganizing them into what are now known as the territorial forces. The government had little aid from the Socialist Labor group in the legislation necessary to this reorganization. The attitude of the group was defined by its parliamentary committee, at the conference of the Independent Labor party, held at Derby, on April 3, 1907. The Territorial Forces bill, the committee affirmed,

makes the volunteer a soldier who lives at home instead of in barracks.

<sup>1</sup> D. J. Shackleton, at Higham, Clitheroe, October 12, 1906.

<sup>2</sup> Cf. speech by Keir Hardie, at Ardrossan. *Tribune*, London, September 17, 1906.

It extends the scope of military law. It hands over the rank of officer to the wealthy classes. It incorporates school corps and other brigades of children into the territorial army ; and it makes the conditions of the service in these volunteer forces so arduous as to render it highly improbable that there will be a sufficient response on the part of the rank and file. Conscription will then stare us in the face.

At the same conference the parliamentary committee reported on the attitude of the Labor group towards the administrative departments of state and towards the civil service.

Our short experience has been sufficient to teach us that it is as important to democratize our administrative departments as it is to democratize our statute book. We have found that the doors to the higher offices in Whitehall are closed to every one who has not had a middle-class or an aristocratic education ; and recent changes have placed our civil service more completely in the hands of the wealthy classes. Promotion in the navy, the organization of secondary education, the appointment of mine and factory inspectors have become less democratic than they have been, and the Labor party, almost unaided, has undertaken to stop this downward process. Democratic laws administered by permanent officials prejudiced against them are not likely to produce the results which you and we desire.

#### *Opposition to Liberal candidates at by-elections*

In the two years and four months that intervened between the general election of 1906 and the reorganization of the cabinet in April, 1908, there were thirty-eight contested by-elections. At fourteen of these there were three-cornered fights, due to the intervention of Socialist Labor candidates, or of Socialist candidates who, at the time of the election, were not associated with the Independent Labor party. All but three or four of these candidates were, however, of the Socialist Labor party, and had the support of the Independent Labor or Socialist group in the House of Commons.

The first of these three-cornered contests occurred when the first session of the Parliament of 1906 was not two months old. On March 12, 1906, there was an election for the Basingstoke division of Hampshire, at which the poll for the successful Conservative candidate was less than the total poll of the Liberal

and Labor candidates. The vacancy was due to the death of a Conservative member, so that the election did not result in the loss of a seat to the government. The next of these contests was in the Cockermouth division of Cumberland. There the vacancy was due to the death of Wilfrid Lawson, who had been a Liberal member of the House of Commons since 1859. The constituency is partly industrial, as many of the electors are employed in mining and at iron works. The Labor group set up a claim to the seat. In opposition to the government candidate, the son of a peer whose wealth had been accumulated in the iron industry of South Wales, the Labor party nominated a trade-union leader. By their action they enabled the Conservatives to win the seat easily, thus inflicting on the Campbell-Bannerman government its first reverse at the by-elections. Four months later, in November, 1906, there was a vacancy at Huddersfield, owing to the fact that the Liberal member had accepted a permanent government appointment. Again the Labor party nominated a candidate, and the government candidate carried the seat by a majority of only 340 votes. The successful candidate polled 5762 votes; the Labor candidate came next with 5422; and 4844 votes were given to the Conservative candidate, who, with Cockermouth in mind, had been confident that he would carry the seat. Early in 1907 a by-election was rendered necessary by the appointment as ambassador at Washington of James Bryce, who had sat for many years for one of the divisions of the city of Aberdeen. At this election, in February, 1907, the government candidate had to meet the opposition of a Socialist candidate not attached to the Independent Labor party, who polled 1740 votes, as compared with 3779 for the Liberal candidate and 3412 for his Conservative opponent.

The first loss of a Liberal seat to the Labor men came in July, 1907, when the government candidate at Jarrow was defeated by Pete Curran, a member of the Socialist Labor party. There were four candidates for a seat which had been held by a supporter of the government. The Labor candidate polled 4698 votes; the Conservative, 3930; the Liberal, 3474; and the Irish Nationalist candidate, 2124. Jarrow was described



by the newspapers supporting the government as a surprise. Two weeks later, in the Colne Valley division of Yorkshire, there came what the Liberal newspapers described as a "galvanic shock."<sup>1</sup> The vacancy there was due to the bestowal of a peerage on a wealthy Liberal member of the manufacturing class—an honor which would probably have been postponed had the government whips had any idea that the failure of the Liberals at Cockermouth and Jarrow would be repeated. The local organization of the Socialist party in the Colne Valley, acting independently of the Labor party of the House of Commons, nominated Victor Grayson, an unattached Socialist, who was elected by a majority of 153 over Philip Bright, a son of John Bright. The vote for Grayson was 3648; for Bright, 3495; and Wheeler, the Conservative candidate, polled 3227 votes.

Jarrow and Colne Valley were the complete electoral successes of the Labor and Socialist movement during the existence of the Campbell-Bannerman government. These elections increased the number of Independent Labor and Socialist members in the House of Commons from twenty-nine to thirty-one; and the number was further increased to thirty-two by the action of the Durham Miners' Union. At the general election John Johnson, who has been an agent of the Durham miners since 1890, was elected at Gateshead as a Liberal Labor member. He had the support of the Liberal party in the constituency, and during the first session of the new Parliament he was one of the Liberal Labor group which sits on the government side of the House and acts generally with the government and the Liberal party. Johnson's parliamentary salary, however, came out of the funds of the Durham Miners' Union, and it was on instruction from his union that Johnson transferred himself from the government benches and joined the Independent Labor group on the opposition side of the chamber.

Encouraged by these successes in the constituencies, by the consternation which Jarrow and Colne Valley had created in the Liberal party and by the attention which their wide and

<sup>1</sup> *The Nation*, August 24, 1907.

persistent propaganda was attracting from both the old political parties, the Independent Labor party threw even more vigor into their electoral activities. In September there was a vacancy in the Kirkdale division of Liverpool. Since the Reform Act of 1832 Liverpool has been the most consistently Conservative city in England; and the Kirkdale division, like most of the nine divisions of Liverpool, has long been represented by a Conservative. At the general election in 1906 the Liberals did not nominate a candidate. There was then a Labor candidate, who polled 3157 votes to 3749 votes polled by the successful Conservative candidate. In September, 1907, the Liberals again allowed the election to go by default. The Labor group, however, persisted in their attentions to the constituency; and after one of the most remarkable parliamentary contests of recent times—a contest in which the curb-stone methods of propaganda of the Labor party were frankly adopted by their antagonists—the Conservatives again carried the seat. Their candidate polled 4000 votes. The Labor candidate's poll was 3330, an increase of 173 on the vote for the Labor candidate at the general election in 1906.

Kirkdale is the only constituency in which, since the general election, Labor or Socialist candidates have had only a Conservative candidate to fight. The next contest—that at West Hull, in November, 1907—was of the usual three-cornered character. The vacancy was caused by the succession of the Liberal member to a recently created peerage. A brother of the new peer, a member of a family long identified with the shipping activity of Hull, was the Liberal candidate. He carried the seat against both Labor and Conservative opposition. Hull had not been before 1907 the scene of an election in which the new Labor party was concerned; although in 1895 there was a Labor candidate, not associated with any national organization, who polled 1400 votes in a contest with a Liberal candidate. In 1907 there were three candidates. The successful Liberal polled 5623 votes; the Conservative, 5382; and the Socialist Labor candidate, 4512. One significant element in the large vote for the Labor candidate at West Hull was the support accorded him by electors who usually vote with the Con-

servative party. Upon this fact the *Yorkshire Post*, the most important Conservative daily newspaper in provincial England, commented as follows:

Unionists will be glad that the Labour candidate has not given the country a repetition of Jarrow or Colne Valley. But the progress made by his party points clearly to the central feature of British politics now and at the next election—in all likelihood for much further ahead. Perhaps the worst feature of this West Hull accession to the Labour party is the fact that apparently Mr. Holmes has taken a number of votes from the Conservative party. At the general election the total of votes polled was 15,057; yesterday it was 15,517. There must, of course, have been changes, so that no exact handling of the figures for purposes of deduction is possible; but if Mr. Holmes, as is probable, has attracted the 2029 votes by which Mr. Guy Wilson has failed to reach his brother's poll at the general election, it would seem also that 1023 Unionist votes polled by Sir John Sherburn, two years ago, have now gone to Labour.<sup>1</sup>

In 1908 the government lost seats in Mid-Devon and in Peckham; but there was no active intervention of the Labor party in either of these constituencies. In South Leeds, in February, 1908, the Labor group ran a candidate against the government candidate. In a three-cornered contest the seat was retained by the government, whose candidate polled 5274 votes, as compared with 4915 votes for the Conservative candidate and 2451 for the candidate of the Socialist Labor party.

There was a miniature general election in April and May, 1908, consequent on Campbell-Bannerman's retirement and the reorganization of the administration. John Morley, Henry Fowler and Edmund Robertson went to the House of Lords—a promotion which necessitated by-elections at Wolverhampton, at Dundee and in the Montrose Burghs. The acceptance by Churchill and Runciman of new offices in the ministry led to by-elections in Northwest Manchester and Dewsbury. There was also a by-election at Stirling, the constituency which Campbell-Bannerman had represented in the House of Commons for forty years. Wolverhampton and Stirling were the

<sup>1</sup> *Yorkshire Post*, Leeds, November 30, 1907.

only constituencies in which the government candidates had not to encounter the opposition of the Socialists. At Dewsbury Runciman was opposed by a candidate of the Socialist Labor group as well as by a Conservative. The newly-appointed president of the Board of Education carried the election, polling 5594 votes, as compared with 6764 polled by him in the same constituency at the general election. The poll of the Socialist Labor candidate was 2446, as compared with 2629 in 1906. The vote for the unsuccessful Conservative candidate was 4078, as compared with 2959 at the general election. Northwest Manchester, the constituency represented by Churchill while he was under-secretary of state for the colonies in the Campbell-Bannerman administration, was represented by a Conservative from 1885 to 1906. In May, 1908, when Churchill sought re-election there after his appointment as president of the Local Government Board, he was opposed by a Conservative and tariff-reform candidate and also by a candidate of the Social Democratic Federation—an organization which came into existence twenty-eight years ago, which has fought numerous parliamentary contests, but which so far has not succeeded in electing one of its candidates to the House of Commons. At an election in which 10,691 voters went to the poll, the Social Democratic candidate received only 276 votes. Assuming that all these votes would, in the absence of a Socialist candidate, have gone to Churchill, they would not have saved the seat for him; for the successful Conservative candidate polled 5417 votes, as compared with Churchill's poll of 4988. It was the government's education policy and Asquith's drastic licensing bill that brought about Churchill's defeat. The Catholic vote was thrown to the Conservative candidate; and every brewhouse in Manchester and every liquor shop in the constituency was a center of Conservative activity. After his defeat at Manchester, Churchill went to Dundee. There a contest awaited him similar to that of Runciman, his ministerial colleague, at Dewsbury. Dundee has two representatives. At the general election one of the seats went to Robertson, who was parliamentary secretary to the Admiralty in the Campbell-Bannerman government, and the other to

Alexander Wilkie, of the Boiler Makers' Union, who is of the Socialist Labor group in the House of Commons. When Robertson's seat was vacated, the Socialists attempted to secure this also; but their candidate, Stuart, polled only 655 votes. Churchill's poll was 7079; and for the Conservative candidate, a Dundee manufacturer, the poll was 4014.

Stuart's platform at Dundee was typical of the platforms of the Socialist Labor party's candidates at this series of by-elections. In the forefront of his appeal to the constituency Stuart put the question of unemployment. He complained that the Unemployed Workmen's bill introduced in the session of 1908 by the Labor group—what has come to be known as the "Right to Work" bill—was unfairly treated by the Campbell-Bannerman government when it was defeated at second-reading stage, on March 13, by 265 votes to 116. Stuart pledged himself, if elected, to support the reintroduction of the bill or the introduction of some other measure based on the right to work and on the duty of the state to see that none of its subjects shall suffer from starvation. Non-contributory old-age pensions and a universal eight-hour day were put forward as remedies for poverty and as a check upon emigration. Stuart, like all the members of the Socialist Labor group, was opposed to tariff reform and protection. As to the liquor question, which at that time was in the forefront in English constituencies, he held that the trade should be controlled by the people. Education, he contended, should be free in all grades; and there should be free meals for the school children who required them, the cost of the meals to be an imperial charge and not, as at present under the Free Meals Act of 1906, a charge on the municipalities. Other planks in Stuart's platform were better housing for the working classes, the taxation of land values (a subject of much present interest in Scotland), home rule for Ireland, adult suffrage and international arbitration.<sup>1</sup> On this platform Stuart polled but 665 votes, as compared with 6833 for Wilkie at the general election. But in 1906 the Socialist Labor candidate had the support of the Dundee

<sup>1</sup> Cf. *Glasgow Herald*, May 1, 1908.

Liberals, whereas in 1908 Stuart was attempting to bring about the defeat of a member of the Liberal cabinet.

The seat for the Montrose Burghs, which John Morley held from 1896, when he failed of re-election at Newcastle, went at the by-election to Robert Vernon Harcourt, son of the late William Harcourt. For the successful Liberal candidate there were 3083 votes; for the Socialist Labor candidate, 1937; and for the Conservative candidate, 1576. The total poll was larger than in 1906. As at West Hull, the Socialist Labor candidate drew his support from electors who had hitherto voted with the Conservatives, as well as from Morley's former supporters; for Harcourt polled some 330 votes less than were polled for Morley, and there were 346 fewer votes for the Conservative candidate in 1908 than at the general election in 1906. It was this turn-over from both the Liberal and Conservative candidates and the new electoral strength, which obviously went to the Socialist candidate, that gave him a vote of nearly two thousand at an election in which 6596 voters exercised the franchise.

The by-elections in England in the early months of 1908 produced unmistakable signs of a reaction against the Liberal government. This was the case at Hastings, Peckham and Wolverhampton, where there were no three-cornered contests, the Socialists not putting up candidates. But in the early days of the Asquith administration there were no such evidences of reaction in Scotland. What may be described as the two progressive parties—the Liberal and the Socialist Labor—developed increased strength at these by-elections; and at Stirling the seat so long held by Campbell-Bannerman was retained by a supporter of the Asquith administration.

*Strength of parties at the incoming of the Asquith government*

After the by-elections following the incoming of the Asquith government, there were in the House of Commons thirty-two Independent Labor members, and there were still, as in 1906, fourteen Trade Union members and fourteen Liberal Labor members. Henry Broadhurst, who began life as a stone-mason, who was secretary of the parliamentary committee of the Trade

Union Congress from 1875 to 1890, and who was of the Liberal Labor group in the House of Commons from 1880, retired from the representation of Leicester in March, 1906. At the general election two months earlier, the Socialist Labor candidate, Ramsay Macdonald, had carried the second seat at Leicester; but when Broadhurst retired the Socialists made no effort, as later at Dundee, to obtain both seats, and a Liberal candidate was permitted to make a straight old-line party fight against the Conservative. He was successful; and by this change in the representation of Leicester the Liberal Labor group in the House of Commons was reduced to thirteen. It was further reduced to twelve by the defection of the miners' representative from Gateshead; but between 1906 and the formation of the Asquith government in April, 1908, Liberal members who had died were succeeded in Northwest Staffordshire and Northeast Derbyshire—both mining constituencies—by Miners' Union representatives. By these elections the losses at Leicester and Gateshead, so far as they affected the Liberal Labor group, were made good, and the strength of the group was maintained at fourteen.

The government majority, when the newly elected House of Commons assembled for the first time, was 242, not including the 29 Socialist Labor members or the 83 Nationalists. Before the session of 1906 was a month old two members elected as Conservatives threw in their lot with the Liberals, bringing the majority of the government up to 244. This number has since been reduced by three, as a result of the gains made by the Socialist Labor party; and between the by-election at Cockermouth in August, 1906, at which the government sustained its first loss, and the by-election at Stirling in May, 1908, six seats were wrested from the government by the Conservatives. The Asquith ministry started on its career with a majority on the government benches of 231, not including the 31 Socialist Labor members or the 83 Irish Nationalists. Four of the nine losses to the Liberal party between the general election in 1906 and May, 1908, are directly traceable to the action of the Socialist Labor party, one of these—that at Cockermouth—resulting in an increase in the strength of the Conservative

party. The number of seats gained by the Conservatives, in the two years and four months over which the Parliament of 1906 had extended at the time of the reorganization of the Liberal government, were much less than the aggregate electoral losses of the party in power in a corresponding period in any previous Parliament.

*Socialist Labor propaganda and Liberal alarm*

The electoral activities of the Socialist Labor party are, after all, only part of a more continuous and wider propaganda carried on in most of the industrial constituencies of England and Scotland. The Labor party is always at work; and its propaganda methods are more akin to those of the Salvation Army than to those of the two older political parties in educating the electorate as to the principles and measures for which the parties stand. Unlike the two older parties, the Labor party has no daily press which in season and out of season is pushing its propaganda. This lack and the complete dependence on the efforts of its own adherents were realized from the outset. It was realized that the conventional methods of the older parties promised no great success for the new movement, and the curbstone was early adopted as the rostrum of the Socialist Labor party.

The unprecedented success of the party at the general election in 1906 was largely due to this curbstone propaganda and to the efforts of hundreds of volunteers, missionaries whose enthusiasm for the new cause, greater than the enthusiasm of many religious teachers for their faith, impells them to follow the methods of the Salvation Army and to make known the faith that is in them wherever half a dozen passers-by will halt under the glow of a street-lamp. Halls are used for public meetings whenever and wherever the funds of a local organization of the Socialist Labor party will admit of such luxury. Where funds are not available, meetings are held at street corners, in the public squares, in the market places or in the parks. Every week, summer or winter, some two thousand five hundred of these meetings are held.<sup>1</sup> They are so numer-

<sup>1</sup> Interview with Keir Hardie. *Globe*, Toronto, July 22, 1907.



ous that reporters are complaining of the new burden which the propaganda is throwing upon them;<sup>1</sup> for with thirty-one Socialist Labor members in the House of Commons it has ceased to be practicable for the newspapers to ignore the local meetings of the party that has returned these members to Parliament.

Among the adherents of both the older parties there was an expectation, perhaps a hope, that there would be an easing-down in the Socialist Labor propaganda after the success that the movement had achieved at the general election. The propaganda, however, went on as before. One description of the methods by which it is pushed will serve to illustrate the activities of the party in the larger cities, where members are numerous, where organization is good, where funds are available for the hire of halls, where speakers of more than local fame can be secured and large audiences can be assured to them. The description quoted is of the activities of the party in Edinburgh, and is taken from the news columns of the *Glasgow Herald*, which is editorially as much opposed to the new movement as is the Liberty and Property Defence League or the Primrose League.

Under the auspices of the Independent Labor party most of the large Sunday meetings are promoted, at which the speakers are prominent social reformers. On a recent Sunday the Right Hon. Sir John Gorst delivered an address to a large gathering. The syllabus of lectures and debates prepared for this winter session provides a somewhat solid feast of reason for the members of the branch. At the end of this month Mr. Victor Grayson, M. P., will speak on the Destiny of the Mob; while Messrs. J. A. Seddon, J. Ramsay Macdonald, Pete Curran, Geo. H. Roberts, Philip Snowden and F. W. Jowett, all members of Parliament, and two Edinburgh clergymen (Congregational and Church of Scotland) are also numbered among the lecturers. A prospect is held out that an arrangement may also be made with the Rev. R. J. Campbell for an address. At the more important meetings a variety is given to the proceedings by the new Edinburgh Clarion Choir, which meets weekly for the practice of Socialist melodies. Another feature of the propaganda in the capital is the Socialist and

<sup>1</sup> *Newspaper Owner*, October 12, 1907.

Ethical Sunday School, conducted weekly in the Central Rooms in the Lawnmarket, where the catechism taught is not that of the Westminster divines.<sup>1</sup>

There was no halt to the activities of the Socialist Labor party after the general election. Its exertions, however, attracted less public attention than in the winter months of 1905-06, when all the political parties were lining up for the great struggle in the constituencies. Consequently the Liberal party, in and out of Parliament, experienced a shock when, at the end of the summer of 1906, it was realized that the Socialist Labor group, as part of its propaganda and with the view also of adding to its parliamentary strength, had persisted in nominating a candidate at Cockermouth, and had thereby thrown the seat long held by Wilfrid Lawson into the possession of the Conservatives.

The Master of Elibank, comptroller of the king's household and one of the Scotch Liberal whips in the House of Commons, was the first member of the Campbell-Bannerman ministry to express his alarm at the impending danger to the Liberal party. In a speech at West Linton, a few days after the defeat of the government candidate at Cockermouth, he said :

Liberalism never thrived upon socialism. Liberals did not believe in the public ownership of the means of production, nor that necessarily capital and labour were antagonistic. They did not believe that it was the right of every man to obtain labour from the state, or that it was the duty of the state to give labour where there was not a demand for it. He knew that, as Scottish whip, he spoke with a certain authority attaching to that position. But as one coming in contact daily with stern and strong workers in the Liberal party of the working classes and of the rank and file of the Liberal party in the House of Commons, he was conscious that there was a growing feeling, which had been accentuated by the Cockermouth election, that unless the Liberal party stood upon its own legs its very vitals would be consumed. It would fall between two stools, and disappear as an active force in British politics.<sup>2</sup>

There were many replies from the Socialist Labor party to

<sup>1</sup>*Glasgow Herald*, October 15, 1907.

<sup>2</sup>*Tribune*, London, August 27, 1906.

these utterances of the Master of Elibank. One from each of the two Socialist newspapers may be taken as indicating their nature. In the *Labour Leader* Keir Hardie, then parliamentary chairman of the group, wrote:

It is to the Cockermouth election that we owe this enlightening burst of frankness. The Scottish Liberal whip is not the only member of the party who is thinking these things; others who think them, and feel them quite as strongly as he, are too discreet to give them tongue in the presence of reporters. In the very nature of things this feeling is bound to grow. Cockermouth is but the first of long series of contests in which Labour will be in conflict with both Liberals and Conservatives. Labour must go on fighting for its own hand, careless of whether its enemy wear one or two heads. For all who oppose Labour candidates are the enemies of Labour, whether they are known as Liberal or as Conservative.<sup>1</sup>

F. W. Jowett, another member of the parliamentary group, wrote in the *Clarion*:

If there had been no Labour candidate at Cockermouth, it would have been merely a society struggle. And even had there been more in the nature of political differences between the orthodox rival candidates than there actually was, we must increase our numbers. We have no intention of remaining a party of thirty if we can help it. Consequently we must fight by-elections.<sup>2</sup>

#### *The Conservative counter-propaganda*

For several months the Conservative party regarded these acute differences between the government and the Socialist Labor party with satisfaction. They would have welcomed an endless series of Cockermouths had it resulted in the handing over to them of what had long been regarded as Liberal seats. But when, as at Jarrow and in the Colne Valley, the Socialist candidates carried elections against both Conservative and Liberal candidates, and when after Kirkdale it began to be realized that men who had formerly voted with the Conservatives were voting for Socialist Labor candidates, the Conservatives in their turn became alarmed. Numerous organizations directly or

<sup>1</sup>*Labour Leader*, August 31, 1906.

<sup>2</sup>*Clarion*, August 31, 1906.

indirectly concerned in the upholding of Tory principles now bestirred themselves to set on foot a counter-propaganda.

The Primrose League, founded in 1883 by Churchill, Wolff and Gorst on the model of the Orange Society, to infuse new life into the Tory party in the constituencies and to form "a new political society, which should embrace all classes and all creeds except atheists and enemies of the British nation,"<sup>1</sup> was first in the field and raised a special fund for a propaganda against socialism. Its speakers were sent out to preach that "the methods of socialism are fraught with inexpressible danger to religion and to civilization itself," and "to show the elector the falsity of the tirades which the socialist and the political agitator are preaching."<sup>2</sup> The Liberty and Property Defence League, founded twenty-five years ago, next pushed into the field. It was prepared to send its lecturers anywhere in the kingdom to prove "that socialism is economically fallacious, politically mischievous and morally unsound."<sup>3</sup> As one outcome of this activity, two hundred delegates from local associations with kindred aims to those of the Liberty and Property Defence League assembled in conference in October, at Caxton Hall, Westminster, on methods to be adopted to stay the socialist movement.

After the Caxton Hall conference, the National Union of Constitutional and Conservative Associations became so deeply impressed with the new danger to Toryism and to society in general that in mid-December, when English winter weather is at its worst, it started four itinerant vans on a tour of England and Wales. Speakers charged with the duty of combating socialism at the cross-roads or on the village greens, or anywhere in rural England where they could find a pull-up for their vans and an audience willing to listen to them, traveled and lodged in these vans. The vans were sent out in response to the hurry call after Jarrow and the general alarm after Colne Valley and Kirkdale. This campaign, in which the Conservatives adopted methods of propaganda first employed by the

<sup>1</sup> Winston Spencer Churchill, *Lord Randolph Churchill*, I, 256.

<sup>2</sup> *Yorkshire Post*, July 25, 1907.

<sup>3</sup> *Ibid.*, July 27, 1907.

land-law reformers in the early eighties, when Chamberlain and Jesse Collings were still of the advanced wing of the Radical party, was continued all through the winter months of 1907-08. Rain or snow, the vans pushed on from village to village, and audiences were found or made for the National Union lecturers. By March 7, 1908, it was reported from headquarters in London that the vans had traveled 13,600 miles; that 8160 villages and hamlets had been visited; that missionary work by the lecturers, and by means of megaphone messages from Balfour and other Tory leaders, had been done in 2785 villages; and that 760,000 people had attended the meetings.<sup>1</sup>

Every Conservative member of Parliament who addressed his constituents in the 1907-08 recess felt it incumbent on him to take his part in the counter-movement against socialism. So did numerous members of the House of Lords; and so did many Liberal members, including men in the front rank of the party, such as Asquith and Haldane. In the winter of 1907-08 the pros and cons of socialism were more continuously and persistently discussed in public and in private than any other political subject. The controversy over the House of Lords was quite submerged in the new and widespread interest in socialism. The education controversy was similarly eclipsed; and it was not until April 17, 1908, when Asquith introduced his bill for reforming the licensing laws, that ordinary political questions regained possession of the public mind.

It is necessary to go back to the period that lies between the French Revolution and the defeat of Napoleon at Waterloo to recall an era in English political history that compares with the exciting winter of 1907-08. In the early days of that reactionary period, people in England were divided into two-distinct schools of political thought. In one were the advocates of parliamentary reform—those who were not shocked beyond the reasoning point by the French Revolution. In the other were those who supported the Tory government, who viewed the Revolution with inexpressible horror, and who regarded the advocates of reform much as they regarded Robespierre and

<sup>1</sup> *Daily Mail*, Manchester, March 14, 1908.

Marat. At that time the advocates of reform were denounced, like the socialists of to-day, as levelers and atheists. Much bitterness was infused into the attack on the socialists, in the winter of 1907-08, by such denunciations—by accusations that they were atheists and were bent on the uprooting and destruction of the family. This attack was pushed so far and so relentlessly that in January, 1908, one hundred clergymen of the established and free churches, who are organized in the Christian Socialist movement, published a manifesto, in which they said :

We declare that the Socialism we believe in, sometimes called Christian Socialism, involves the public ownership and management of the means of production, distribution and exchange, and is therefore essentially the same Socialism as that which is held by Socialists throughout the world. Our Socialism is not less earnest nor less complete because it is inspired by Christianity. The central teaching of Socialism is a matter of economics, and may therefore be advocated by all men, whether they be Christians or unbelievers ; yet we feel, as ministers of the Christian faith, that this economic doctrine is in perfect harmony with our faith, and we believe that its advocacy is sanctioned and indeed required of us by the implications of our religion.<sup>1</sup>

At the end of the winter campaign the Socialist Labor party, like the National Union of Conservative Associations, published its estimate of the season's work. It claimed gains not only from its own propaganda but from the counter-propaganda.

The Tory party has constituted itself the champion against Socialism. The Liberal party, though not officially taking part in the campaign, and although many Liberal politicians and newspapers have either held entirely aloof or expressly dissociated themselves from it, has nevertheless in parliamentary contests and in local politics joined bitterly and unscrupulously in the attack upon Socialism. All of this has been a great gain to our cause, and made the year memorable in the history of British Socialism.<sup>2</sup>

<sup>1</sup>*Daily News*, January 20, 1908.

<sup>2</sup> Report submitted to the conference of the Independent Labor party, at Huddersfield, in April.

*Labor legislation*

The more important legislative successes of the labor movement came in the session of 1906. In that session the Socialist Labor group impelled the government to accept the principle of a bill introduced by one of its members for safeguarding trade-union funds from judgments in the law courts like that in the Taff Vale case, which mulcted the Amalgamated Society of Railway Servants in heavy damages arising out of a strike on one of the railways in South Wales. Bills dealing with this subject were before the House of Commons of 1900-06. One was introduced in 1903; and in 1905 the second reading of such a bill was carried by a majority of 122. This measure, however, failed of final passage in the House of Commons for lack of time; and at the general election of 1906 trade-unionists all over the country sought pledges from candidates that they would support a bill amending the law as it had been laid down in the Taff Vale case.

The Campbell-Bannerman government was pledged to legislation to safeguard trade-union funds; and on March 28, 1906, Lawson Walton, the attorney-general, introduced a Trades Dispute bill of three clauses. The first two clauses defined and limited conspiracy and legalized peaceful picketing; the third clause provided that funds of trade unions could not be made liable for damages by reason of any action of a trade-union official, unless the action could be proved to have been authorized by the central body of the trade union.

On this last clause the Labor members promptly took issue with the government. Their position was that it had been the intention of Parliament, when it passed the Trade Union Act of 1871, absolutely to safeguard trade-union funds; that for thirty years it had been universally supposed that the funds were so safeguarded; that no one had suffered during that period from this supposed immunity; and that the legislation which the trade unions demanded would merely restore them to the position conceded to them before the House of Lords decision in the Taff Vale case. These objections were raised on the first reading of the attorney-general's bill; and before

that measure came up for second reading—the stage at which the principle of a bill is accepted or rejected—the House was called upon to vote on a bill introduced by William Hudson, Socialist Labor member for Newcastle-on-Tyne, which was also intended to safeguard trade-union funds. Hudson's bill went much further than the government bill. It gave to trade-union funds absolute immunity from any such liability as was asserted in the Taff Vale decision. The second reading of this bill was carried by a majority of 350, and the government had no option but to substitute the clause in the Hudson bill for the third clause in the attorney-general's bill.

In this form the bill went to the House of Lords. It had been strenuously opposed by the Conservatives in the House of Commons and vigorously denounced by the Conservative press. This opposition, which was by no means confined to the Conservative party, aroused an expectation that the House of Lords would assert itself and summarily reject the bill. It was December, 1906, before it came up for second reading in the Lords. Halsbury, who was lord chancellor in the Conservative administrations from 1895 to 1906, and who is one of the few surviving Tories of the Eldon school, characterized the trade-union funds protection clause as "the most disgraceful section that had ever appeared in an English statute" and denounced it as "absolutely contrary to the whole spirit of the English constitution." But the Conservative leaders did not regard it as good tactics, in the then impending controversy between the Liberal House of Commons and the Tory House of Lords, that the Lords should throw out the bill and thus become involved in a contest with the democracy in the constituencies. Landsdowne, the opposition leader in the Lords, accordingly announced that while the Conservatives disclaimed all responsibility for the bill they would not oppose its enactment. So the bill went on the statute book, where it stands as the greatest and most direct parliamentary achievement of the Labor movement in British politics—an act with a House of Commons history that will serve for years as a justification for the Independent Labor movement.

In the same session of Parliament there was passed an amending act to the Compensation to Workmen Act of 1897



(Chamberlain's act), which, it will be remembered, is based on the principle that the casualties of industry must be charges upon the industries in which they occur. The amending act brought clerks, shop assistants, seamen, postmen and domestic servants within the provisions of the law. It also removed some difficulties and anomalies which had been disclosed in the nine years' working of the original act.

Another measure which the Labor men in the House strongly supported was the Educational (Provision of Meals) Act. This is not a mandatory but a permissive act. Under its provisions a local educational authority, which is convinced that there are children attending the schools under its care who are in need of food and that voluntary effort to supply this need is insufficient, may provide meals and may lay a rate not exceeding one halfpenny in the pound on the assessed rental value of the property in the area subject to its jurisdiction.

In the same session (1906) one of the members of the Socialist Labor group introduced an amendment to the Aliens Act of 1905, to make it unlawful to import men to take the places of men who were out on strike. This measure was passed by the House of Commons only to be rejected when it came up for second reading in the House of Lords. In the session of 1907 Parliament passed an act bringing laundries within the scope of those of the Factory Acts which regulate the work of women and children. This was the only labor law adopted in 1907.

The enactments above summarized include most of the labor and social legislation which, up to the incoming of the Asquith government in May, 1908, had been enacted by the Parliament elected in 1906. But no adequate idea of the parliamentary activity of the Socialist Labor group is possible without some brief statement of the directions in which they have sought to push legislation, as shown by bills introduced by members of the group which were either defeated at second reading or failed to get even so far in their progress through the House of Commons.

In the session of 1906 William Crooks, a cooper by trade, introduced a bill providing that members of Parliament should

travel free on the railways when journeying to or from their homes or their constituencies and Westminster. Jowett introduced a bill to prohibit manufacturing in woollen, worsted and silk factories between noon on Saturday and six o'clock on Monday morning. The industries were thus defined because in the factory code there is already a law which prohibits women and children from working in cotton factories after noon on Saturdays. The proportion of women and children in these factories is so large that this law guarantees the stoppage of all work in the cotton factories at noon. In the other textile mills the proportion of women and children is much smaller—so much smaller that work can be continued after noon on Saturdays, after the women and children in these mills may have ceased work. Jowett's bill was defeated on the second reading. In the same session William C. Steadman, who is of the Liberal Labor group or, as it is sometimes called, "the Old Guard," introduced a bill for the establishment of fair-rent courts for working-class tenants; and in the session of 1908 Richard Bell, of the Amalgamated Society of Railway Servants, also of the Liberal group, introduced a bill making it compulsory on employers to furnish a reference note to any person leaving their employ and requesting such a note.

The measure on which the Socialist group concentrated its energies in the session of 1908 was the "Right to Work" bill, which was introduced by W. T. Wilson, carpenter, who sits for the West Houghton division of Lancashire. This bill provided for the registration of unemployed labor and for the establishment, by order in council, of a central unemployment committee. It proposed to impose on municipal authorities the obligation to find work for every registered unemployed person within their areas or, in the alternative, to provide maintenance for the workmen and those dependent upon him, without disfranchising him. It was also proposed to confer power on local authorities to detain for a period of six months any unemployed person who refused to work.

Wilson was fortunate in the ballot for days for private members' bills. His measure came up for second reading on March 13. An urgent whip against the bill was sent to all the govern-

ment's regular supporters; and after a long discussion, in which there were some tart interchanges between John Burns and members of the Socialist Labor group, the motion for second reading was rejected by 265 votes to 116. Thirty Liberal members, including Masterman, who is now of the Asquith ministry, voted with the Labor men; so did such of the Irish Nationalists as were present, and also two members of the Conservative opposition.

### *Other results*

To complete this survey of the parliamentary work and position of the Labor party, it only remains to add that, as the result of the general strength of the Labor movement in the House of Commons as represented by the three distinct groups of labor representatives, there have been many concessions to labor by the various government departments. Trade-union representatives of the postal and telegraph clerks were recognized by Buxton, the postmaster-general. Seamen and seagoing firemen have obtained the right to be represented before the local marine boards by the officials of their unions when charges of breach of discipline are preferred by captains against members of their crews. This concession was made by Lloyd George, when he was president of the Board of Trade. An eight-hours working day was established in the Admiralty dock yards in June, 1906; in December, 1906, wages in these establishments were increased; and, also in 1906, the wages of gardeners in the several parks in London and the vicinity that are under the control of the commissioner of public works were increased by three shillings a week. During the two years and four months over which the Campbell-Bannerman administration extended, an unusual number of royal commissions and select committees were appointed to investigate industrial and social conditions, and early in the session of 1906 the Socialist Labor group established its claim to representation in the make-up of these commissions and committees.

What the Socialist Labor party itself claims for its activity in and out of Parliament between the general election of 1906 and the beginning of the session of 1908 was set forth by Ramsay

Macdonald, its parliamentary secretary, on the eve of the new session.

The fact that progress has been made all around indicates why the party has existed at all. It has quickened the intelligence and the sense of self-respect amongst the wage earners of the country. It has been of inestimable value to the morale of the masses that a body of men, every one of whom sprung from the cottage and the industrial home, have been in the House of Commons for the past two years, and gaining by their practical capacity and native ability a conspicuous place in an assembly where, it had been assumed, only "the classes" could shine. The common man has been taught to hold up his head, and has been led to believe in that most valuable of all forms of self-help—self-help in the making of laws. Whilst Radicals have been talking of the forms of democracy, the Labour party has been awakening the spirit of democracy, with the result that democratic thought and democratic organisations have received new vitality.<sup>1</sup>

### *A look forward*

As to the future of the party, my own conviction is that it will continue to gain in strength in the constituencies and in the House of Commons. At the end of the session of 1907, Liberal newspapers, while conceding that the party was "a real asset in the business of government," that "its influence in the House of Commons was towards purity and simplicity," that it included "individuals of repute and force" and that at least three of its members—Macdonald, Shackleton and Barnes—"might quite properly be included in a cabinet of advanced politicians," objected that the Socialist Labor party could not form a government—"that it could not sustain the foreign or domestic policy of the country." \* Such a result is not within the contemplation of its middle-class supporters. The tens of thousands of electors who before 1906 voted with the Liberals and the thousands of electors who voted with the Conservatives, and who are to-day in sympathy with the Socialist Labor party, have no expectation that in the near future the group will be called upon to form an administration. They have no desire that its full

<sup>1</sup>*Daily News*, January 20, 1908.

<sup>2</sup>*Nation*, London, November 30, 1907.

program shall be realized—that the state shall possess itself of the means of production, distribution and exchange. But they realize that there is much to be achieved short of the full program of the Socialists. To-day they are satisfied to give their support to the Socialist Labor party because it stands for some ideals of social justice and social betterment; because it is working towards these ideals; and moreover, and in particular, because in season and out of season the Socialist Labor party keeps the “condition of England question” to the front in the public mind.

The old “governing classes” theory, dominant between the Revolution of 1688 and the middle of Queen Victoria’s reign—the theory that millions of electors are to march to the polls every five or six years merely to assist this or that group of the governing classes to form an administration and divide the ministerial offices—is nowadays losing its hold on the public mind. Opposition to the old theory became increasingly strong after the Reform Act of 1885; and it must increase in strength as the level of popular intelligence rises, and as nineteenth-century history and biography—especially political letters and biographies—are more widely read and more critically estimated.

Contemporaneously with the gradual relegation into the background of the theory of rule by the governing classes, it has been increasingly realized that, in the absence of any constantly impelling popular forces and movements, there is at bottom not much difference in the political aims and ideals of the Conservatives, of the Whigs, and of those orthodox Liberals who are scarcely distinguishable from Whigs. The difference is particularly small in the case of those wealthy Liberals of the mine-owning, ship-owning, manufacturing and commercial classes who are intent on social and territorial as well as political ambitions, who are anxious to “gentle their condition,” and who put social ambition—a baronetcy or a peerage—as the goal of their political activities. All this has been brought home to the minds of the younger members of the Liberal party in the constituencies, especially in the great industrial constituencies, by the excessive creation of peers—twenty-eight in all—since the Liberals came into office at the end of 1905. It has been

brought home to them also by the artificiality and hollowness of the recent worse than abortive movement of the front-bench Liberals against the House of Lords; and again by the lack of courage and of persistence shown by the Liberal ministry in dealing with the education question. In the space of two years three Liberal cabinet ministers have tried their hand at a settlement of this question; and two of them have dropped a worse than half-completed task, with attendant loss of heart and demoralization for the rank and file of the party, when promotion in cabinet rank came within their reach.

Between the American Revolution and 1832, it was the custom of the House of Commons, at wide intervals, after bad harvests or during a period of industrial depression, to go into committee of the whole to consider the state of the nation—to discuss the condition of England. Today that question, presented in an infinitely more comprehensive form and viewed from a totally different standpoint, is being discussed outside Parliament with a persistence and continuousness without precedent in England's history. It is in the atmosphere of English life. It is not discussed on party lines; and its discussion tends increasingly to the dissolution of the cement which has in the past served to hold people to the one or the other of the old-line political parties. So long as this discussion of the condition of England goes on, and so long as the question continues to be faced in the spirit of this new awakening of the social conscience, any party in the House of Commons which can be made to serve as a propelling force behind either the Tory or the Liberal party must continue to gain strength in the constituencies and to increase its admitted and obvious national usefulness at Westminster.

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## THE LEX CURIATA

TO understand the Roman *lex curiata* it is necessary to take into consideration the powers and functions of the Curiate Assembly in the period of its political importance. The assumption has commonly been made that from the beginning the Roman people, and therefore the *comitia*, were sovereign. This view rests in part, however, on a confusion of two ideas which should be kept distinct. In its broadest sense *populus* designates the state, which is sovereign whether it expresses its will through the king, the Senate, or the popular Assembly. In international relations it has always this meaning. More narrowly, it signifies the mass of citizens in contrast with the magistrates or with the Senate. In the latter sense it cannot be said that the *populus* was from the beginning sovereign. The Romans of later time understood that in the regal period the Senate had the wisdom to advise, the king possessed the *imperium*, whereas the people enjoyed but a limited degree of freedom, right and power.<sup>1</sup> Their condition was not liberty but a preparation for it.<sup>2</sup>

With reference to the specific functions of the Assembly, Dionysius<sup>3</sup> states that Romulus granted to the commons three rights: (1) to elect magistrates, (2) to ratify laws, (3) to decide concerning war, whenever the king should refer the matter to them. Livy's<sup>4</sup> stricture on the absolutism of Tarquin the Proud implies, too, that constitutionally the Assembly had power to decide on peace and war. But stress should be laid on the admission of Dionysius that probably all the questions above enumerated, or at least those of peace and war, were referred to the Assembly at the pleasure only of the king—that the decision of them was not a right of the people but a concession on the part of the sovereign. Still more important, these generali-

<sup>1</sup> Cicero, *De Republica*, 28, 50; *cf.* 23, 43.

<sup>2</sup> Livy i, 46, 3; 60, 3; ii, 1, 6 *et seq.*; 15, 3.

<sup>3</sup> II, 14, 3.

<sup>4</sup> I, 49, 7.

zations are in great part invalidated, as Rubino <sup>1</sup> has shown, by the testimony of their authors. Till the year 427 B. C. the Senate claimed the right to declare an aggressive war,<sup>2</sup> and for a hundred years longer the magistrates alone or in conjunction with the Senate were competent to conclude treaties of peace.<sup>3</sup>

With reference to the legislative activity of the Assembly under the kings, it is necessary to call attention to the fact that among all peoples in the earlier stages of their growth law is chiefly customary.<sup>4</sup> At the time of her founding, Rome inherited from the Latin stock, to which her people mainly belonged, a mass of private and public customs, which, owing their existence to no legislative power, were the result of gradual evolution. Under such conditions the king or chief settled disputes in accordance with these usages, though in the general belief his individual judgments came directly to him from some god. The Homeric king received his dooms—*θεμιστες*—and even his thoughts from the gods.<sup>5</sup> The mythical or semi-mythical legislators of Greece, as Minos, Lycurgus and Zaleucus, were given their laws by revelation. In like manner Numa, who may be considered a typical legislator for primitive Rome,<sup>6</sup> received his sacred laws and institutions from the goddess Egeria;<sup>7</sup> and Romulus, the first great law-giver,<sup>8</sup> was a demi-god, who passed without dying to the dwelling-place of the immortals.<sup>9</sup> Roughly distinguished, Romulus was the au-

<sup>1</sup> *Römische Verfassung und Geschichte*, pp. 257 *et seq.*

<sup>2</sup> Livy iv, 30, 15.

<sup>3</sup> *Cf.* Livy's account (ix, 5-10) of the treaty of Caudium in 321 B. C. The subject is discussed at greater length in my *Roman Assemblies*, to be published in the near future.

<sup>4</sup> For the Indo-Europeans, see Schrader, *Reallexikon der indogermanischen Altertumskunde* (1901), p. 655; Maine, *Ancient Law*, pp. xv, 2; Hirt, *Indogermanen*, II, p. 522. There was doubtless occasional legislation by the Assembly in its earliest history; *cf.* the prohibition of the importation of wine by the Suevi (Caesar, *De Bello Gallico*, iv, 2), which may have been an act of the kind.

<sup>5</sup> *Iliad* i, 238; ix, 98; *Odyssey* vi, 12.

<sup>6</sup> Cicero, *Rep.* v, 2, 3; Livy i, 19, 1.

<sup>7</sup> Livy i, 19, 5; *cf.* 42, 4; Tacitus, *Annals*, iii, 26.

<sup>8</sup> Livy i, 8, 1; Vergil, *Aeneid*, i, 292.

<sup>9</sup> Cicero, *Rep.* ii, 10, 17; Livy i, 16.



thor of the secular law, Numa of the sacred.<sup>1</sup> In general the Romans of later time looked back to their kings, the founders of their state,<sup>2</sup> as the authors not only of their fundamental laws and institutions but even of their moral principles.<sup>3</sup> Doubtless the Roman view of the ancient king is an image of the republican dictatorship, of the extraordinary *magistratus rei publicae constituendae*, of the consul freed from his various limitations;<sup>4</sup> but the picture, stripped of the distinctness which came with the gradual formulation of constitutional usage, is, as comparative study shows,<sup>5</sup> true to the primitive condition which it aims to represent.

From this early conception the idea of human legislation gradually emerged. Not daring on his own responsibility to change a traditional usage which the people held sacred, the magistrate found it expedient to obtain their consent to any serious departure, with a view not to legalizing the proposal, but to pledging the people to its practical adoption. But to the end of the regal period the legislative activity of the *comitia* remained narrowly restricted. The body of *leges regiae*, described as curiate by Pomponius<sup>6</sup> on the supposition that they were passed by the assembly under royal presidency,<sup>7</sup> was little more than the *ius pontificum*—the customary religious law—with whose making the *curiae* had nothing to do.<sup>8</sup> If the king wished to admit new citizens,<sup>9</sup> erect public works, levy forced

<sup>1</sup> On the legislation of the kings, see Voigt, in *Abhandlungen der königlich sächsischen Gesellschaft der Wissenschaften*, VII (1879), pp. 555–826.

<sup>2</sup> Livy ii, 1, 1.

<sup>3</sup> Cicero, *Rep.* i, 2, 2.

<sup>4</sup> Mommsen, *Römisches Staatsrecht*, II, p. 11.

<sup>5</sup> See my *Roman Assemblies*, mentioned on p. 499, n. 3, *supra*.

<sup>6</sup> Justinian, *Digesta*, i, 2, 2, 2.

<sup>7</sup> Ascribed to Ancus Marcius by Livy (i, 32, 2) and Dionysius (iii, 36, 2 *et seq.*), to Romulus and his successors by Pomponius (*Dig. loc. cit.*), and destroyed in the Gallic conflagration (Livy vi, 1, 1).

<sup>8</sup> Lange, *Römische Altertümer*, I, p. 314; Voigt, in *Abhdl. d. sächs. Gesellsch. d. Wiss.* VII, p. 559.

<sup>9</sup> The sources uniformly represent the kings as acting alone in the admission of individuals and of entire communities to citizenship. The view of Mommsen, *Röm. Staatsr.* III, p. 29, that the Assembly coöperated, rests merely upon his theory of an original popular sovereignty and of an original patrician state, neither of which has any basis in fact.

labor on the people,<sup>1</sup> reform the military organization,<sup>2</sup> punish a man with chains and death,<sup>3</sup> make a treaty, or even declare an offensive war, no power compelled him to submit the measure to the citizens. Although he must often have found it expedient to engage their coöperation in national enterprises, or, more rarely, in a legal innovation,<sup>4</sup> it may be stated with confidence that before the beginning of the republic the Curiate Assembly had not acquired the right to be consulted on any of these matters, that its slight activity in legislation and administration was a concession from the king rather than a right; for under the republic such activity, gradually increasing, belonged to the centuries and the tribes. We may accept without hesitation the principle that in form if not in substance the *curiae* retained all the powers which they had ever actually possessed.

Judicial business, which no one assumes to have been a primitive function of the Roman Assembly, needs no long consideration here. Among the early Indo-Europeans the settlement of disputes and the punishment of most crimes were in the hands of the families and brotherhoods; only treason and closely related offences were tried by the king in the presence of the Assembly.<sup>5</sup> The religious ideas attaching to crime and punishment<sup>6</sup> in early Rome suggest that the priests had the same connection with these matters there as among the Celts and Germans. That condition yielded to the growing authority of the king, who is represented by the ancients as wielding an absolute power of life and death over his people, and as allow-

<sup>1</sup> Cicero, Rep. v, 2, 3; Livy i, 38, 7; 56, 1 *et seq.*

<sup>2</sup> Livy i, 43.

<sup>3</sup> Livy i, 44, 1; *cf.* especially the summary condemnation and execution of Mettius; *ibid.*, i, 28. Livy's complaint (i, 49, 4) against Tarquin the Proud is that he decided capital cases without assessors, not that he allowed no appeal.

<sup>4</sup> Lange's view (Röm. Alt. I, p. 314) that under the kings there was absolutely no legislation, except the passing of the *lex de imperio*, cannot be proved and seems unlikely. Mommsen's hypothesis (Röm. Staatsr. III, p. 327) that under the kings the *comitia* were exclusively legislative, elections and judicial functions being a republican innovation, is contrary to all evidence. There is no reason for supposing that the republic brought to the *comitia* any absolutely new function.

<sup>5</sup> Schrader, Reallexikon, p. 662.

<sup>6</sup> Greenidge, Legal Procedure of Cicero's Time, p. 298.

ing in capital cases an appeal to the Assembly at his discretion.<sup>1</sup> From the general conception of the relation between king and Assembly thus far indicated, it is necessary to conclude that if the people had any claim to a share in the jurisdiction it must have been slight as well as vague, and one which they were in no position to enforce.

A review of the individual kings might give the impression that an act of the Assembly was unessential to filling the regal office. Not only were Romulus and Tatius kings without election,<sup>2</sup> but, according to Livy,<sup>3</sup> Numa's appointment was made by the Senate alone, and Servius Tullius ruled long and introduced his great reforms before his election.<sup>4</sup> Tarquin the Proud to the end of his reign was neither appointed by the Senate nor chosen by the people.<sup>5</sup> From these four or five instances of kings who ruled without election, as well as from the fact that both the dictatorship—a temporary return to monarchy—and the office of *rex sacrorum*—the priestly successor to the monarch—were filled by appointment, we might infer that the kingship was not elective.<sup>6</sup> But on the other hand the word *interregnum*, which could not have been invented in the republican period, and which involves the idea of election, as well as the general custom of choosing kings among primitive European peoples, may be added to the authority of the sources<sup>7</sup> in favor of an elective monarchy in earliest Rome. The nomination of the king by the competent authority was perhaps acclaimed in a *contio*, as among the early Germans. Such an election, we may suppose, was in the beginning legal without further action on the part of the people. But the accession of a king was a momentous event in the life

<sup>1</sup> Cf. Livy i, 26, 8 *et seq.*; Cicero, Pro Milone, 3, 7; Greenidge, *op. cit.*, pp. 8, 305 *et seq.*

<sup>2</sup> Cicero, Rep. ii, 2, 4; 7, 13; Livy i, 13, 4.

<sup>3</sup> I, 17, 11. Cicero (Rep. ii, 13, 25), however, supposes him to have been elected by the people.

<sup>4</sup> Cicero, Rep. ii, 21, 37; Livy i, 41–6; Dionysius iv, 8.

<sup>5</sup> Livy i, 49, 3.

<sup>6</sup> Cf. Mommsen, Röm. Staatsr. II, p. 6.

<sup>7</sup> Cf. Cicero, Rep. ii, 13, 25; 17, 31; 18, 33; 20, 35; Livy i, 17, 10; 32, 1; 35, 1; 35, 6; 46, 1; Jordan, Könige im alten Italien, pp. 25 *et seq.*

of a generation—far more important than the annual declaration of war upon a neighbor—and the advantage of a formal vote of the Curiate Assembly, after its institution, was obvious both to the king and to the *sacerdotes*; it gave to the former the solemn oral pledge of obedience from the citizens, and to the latter an opportunity to influence the proceedings through the auspices and through the manipulation of the calendar.

Under this system the king, after his appointment by his predecessor or by the *interrex* and after the acclamation in *contio*, if such action took place, convoked the *curiae* on the first convenient comitial day of his reign, having held favorable auspices in the morning, and proposed to them a *rogatio*<sup>1</sup> to the following effect: "Do you consent, and regard it as just and legal, that I as king should exercise *imperium* over you?" This *rogatio*, answered affirmatively by a majority of the *curiae*, became a *lex curiata de imperio*.<sup>2</sup> The informal acclamation, if it was ever customary, must have disappeared at a very early period, and the passing of the curiate law was then looked upon as the election proper.<sup>3</sup>

<sup>1</sup> Cicero, Rep. ii, 13, 25 (Numa); 17, 31 (Tullus Hostilius); 18, 33 (Ancus Marcius); 20, 35 (Tarquinius Priscus).

<sup>2</sup> The formula for the curiate law is unknown. Lange, Röm. Alt. I, pp. 307, 407, 459, 461, supposes that it not only pledged the people to obedience, but also defined the *imperium* and bound the king not to exceed the limitations imposed, and that every constitutional modification of the *imperium* required a corresponding change in the curiate act. Herzog, Geschichte und System der römischen Staatsverfassung, I, p. 111, further assumes that the law contained the formula of treaty on which, in his opinion, the state rested, and that before the age of written documents this treaty was handed down orally through the repetition of the law. Lange's theory, which runs throughout his great work, seems to rest on the single statement of Tacitus, Ann. xi, 22: "Quaestores regibus etiam tum imperantibus instituti sunt, quod lex curiata ostendit a L. Bruto repetita." But the statement of Tacitus proves only that the quaestors were mentioned in the curiate law—a circumstance which is more simply explained below, p. 507. That the law defined and limited the *imperium* is unlikely: (1) because in early times, when the act had a real meaning, precise definitions were unknown; (2) because there is no evidence of it.

<sup>3</sup> It is true that Cicero supposes the king to have been elected by the *comitia curiata* and the *imperium* to have been sanctioned by the same assembly. This double vote of the *curiae* seems as improbable as unnecessary. We may reasonably consider the alleged first vote a mistaken inference from the later election of higher magistrates by the centuries. The assumption of an acclamation as the first stage in the process accords far better with primitive conditions.

Concessions to the people develop into popular rights. The citizens, deeply interested in the choice of a man who for the remainder of his life was to represent their community before the gods, lead them in war and exercise over them the power of life and death, claimed as their first active political right the *ius suffragii* in the enactment of the *lex curiata de imperio*. Hence after the institution of the republic and of the *comitia centuriata*, the *curiae* clung obstinately to this inalienable prerogative.

The development of the elective process outlined above is offered in explanation of the curious phenomenon that under the republic, while no other acts of the Centuriate or of the Tribal Assembly required confirmation by the *curiae*, elections in these assemblies did require such sanction. This explanation is the only one proposed which harmonizes with the Roman interpretation of the peculiarity. According to Cicero it was provided that in the case of all elective magistrates the people should vote twice on each, that they might have an opportunity to correct what they had done, if they repented of having conferred an office on any person. In the case of the censors this second vote was cast in the *comitia centuriata*; all other elective magistrates received it in the Curiate Assembly.<sup>1</sup> Rubino<sup>2</sup> and others have objected that Cicero's interpretation of the curiate law is biassed by his desire to contrast the essentially anti-popular character of the demagogue Rullus, who by the terms of his agrarian law would deprive the people of their right to vote even once in the election of officials, with the wisdom and moderation of the ancient statesmen, who were so devoted to the people as to allow them two opportunities to express their choice in the case of each magistrate. The orator, it is urged, could not himself know the original intention of the usage; and his interpretation is contradicted by the fact that the person

<sup>1</sup> Cicero, *De Lege Agraria*, ii, 11, 26: "Maiores de singulis magistratibus bis vos sententiam ferre voluerunt. Nam cum centuriata lex censoribus ferebatur, cum curiata ceteris patriciis magistratibus, tum iterum de eisdem iudicabatur, ut esset reprehendi potestas, si populum beneficii sui paeniteret." Cf. 10, 26.

<sup>2</sup> *Röm. Verf. und Gesch.* pp. 361, 379. For a summary of the various modern views, see Nissen, *Beiträge zum römischen Staatsrecht*, pp. 42-46.

who proposed the *lex curiata* was already a magistrate, the voting on this *lex* being subsequent to the election and forming no part of it.<sup>1</sup>

In favor of Cicero it may be stated in the first place that he was not simply offering a conjecture as to the original intention of the usage, but was interpreting the formula of the law as it existed in his own day. There would be no point to his interpretation unless the formula ran somewhat like that of an election; and he affirms definitely that the law bestows the magistracy upon a person who has already received the same office from other *comitia*—that it is, in other words, a second bestowal of the office.<sup>2</sup> That this interpretation is not a mere invention of Cicero is proved by a statement of Messala<sup>3</sup> that the magistracy in the strict legal sense of the term is granted by the curiate law. And the point maintained by Messala is further confirmed by that article of the agrarian *rogatio* of Rullus which provides that the *decemviri agris adsignandis* may, if necessary, dispense with the curiate law and yet be “decemvirs in as legal a sense as are those who hold the office according to the strictest law.”<sup>4</sup> In other words, the person who has been elected by the *comitia centuriata* or *tributa* is a *magistratus*, though not a *magistratus iustus* or *optuma lege*; a second election, by the *curiae*, is essential to the latter.<sup>5</sup>

<sup>1</sup> It is not probable that an official could pass the law for a colleague, the intention being that each higher magistrate should personally propose and carry the law for himself; cf. Mommsen, *Röm. Staatsr.* I, p. 610, n. 2.

<sup>2</sup> *Leg. Agr.* ii, 10, 26: “Hoc inauditum et plane novum, ut ei curiata lege magistratus detur, cui nullis comitiis ante sit datus.”

<sup>3</sup> In Gellius xiii, 15, 4: “Magistratus . . . iustus curiata datur lege.”

<sup>4</sup> In Cicero, *Leg. Agr.* ii, 11, 29: “Tum ii decemviri, inquit, eodem iure sint, quo qui optuma lege.” See the following note.

<sup>5</sup> *Optuma lege* (cf. note above) sometimes denotes “with fullest power,” as in Festus 198, 32; but in the article of the *rogatio* of Rullus above quoted it has reference to the formality of election and is so interpreted by Cicero. With him it is not a question of degree of power, as he has already stated (§ 28) that under the circumstances the decemvirs without the curiate law could do nothing at all: *idem iuris* (§ 29) signifies rather “degree of legality.” *Magistratus optuma lege* is the same as *magistratus iustus*; cf. Messala, note 3, *supra*. In this connection *iustus* does not signify legal as opposed to illegal, but legally or technically perfect, correct. For the meaning “proper,” “perfect,” cf. Cicero, *Ad Familiares*, ii, 10, 3 (*iusta vic-*

The formula for the curiate law, in addition to its resemblance to that for elections, must have contained some reference to the *imperium*, as we may infer from its frequent designation as a *lex de imperio* by Cicero. From this phrase modern writers infer that the law conferred the *imperium* upon newly elected magistrates. The question whether it granted to a magistrate powers which he did not already possess will be considered below. For the present it is enough to state that in no instance do the ancients speak of "conferring" the *imperium* by the curiate law or of deriving the *imperium* from that law by any process whatsoever. But mention is made of conferring the *imperium* by a decree of the Senate or by the suffrages of the people in the Centuriate or Tribal Assembly and of *confirming* it by the *lex curiata*.<sup>1</sup>

*toria*); Caesar, B. G. i, 23 (*iustum iter*); Livy i, 4, 4 (*iusti cursum omnis*); xxxix, 2 (*iusto proelio*). Accordingly when Cicero (Post Reditum in Senatu ii, 11, 27) speaks of the *comitia centuriata* as the *iusta comitia*, he does not imply that the other *comitia* and their acts lack legality, but rather that they carry less weight; and when as late as 300 B. C. the patricians claimed that they alone had *iustum imperium et auspicium* (Livy x, 8, 9), they could only mean that their right to these powers was better established than that of the plebeians. C. Flaminius, consul in 217 B. C., possessed *imperium*, which he was actually exercising over his troops, but which was not *iustum*, for he had neglected the auspical formalities appropriate to the entrance upon the consulship (Livy xxii, 1, 5). It would be wrong, however, to suppose with Nissen, Beitr. z. röm. Staatsr. p. 51, that he commanded on the sufferance only of his soldiers.

<sup>1</sup>The usual expression is "de suo imperio curiatam legem tulit," or "populum consuluit"; Cicero, Rep. ii, 13, 25; 17, 31; 18, 33; 20, 35; 21, 38; Livy ix, 38, 15. The Senate granted the *imperium* to Octavianus, a private citizen; Cicero, Philippica, v, 16, 45. The *interrex*, who could not have had a curiate law, nevertheless possessed *imperium* (Livy i, 17, 5 *et seq.*), and the absolute *imperium* was granted by a decree of the Senate; Livy iii, 4, 9; Sallust, Catilina, 29; Historiae, i, 48, 22 (Dietsch). See also Cicero, De Legibus, iii, 3, 9: "Imperia, potestates, legationes, quom senatus creverit populusve iusserit, ex urbe exeunto"; Leg. Agr. ii, 7, 17: "Omnes potestates, imperia, curationes ab universo populo proficisci convenit" (reference cannot here be to the Curiate Assembly, which in this connection Cicero does not recognize as the people). For the Centuriate Assembly, see Livy xxvi, 18, 9: "Omnes non centuriae modo sed etiam homines P. Scipioni imperium esse in Hispania iusserunt"; 22, 15: "Centuriam vero iuniorum seniores consulere voluisse, quibus imperium suffragio mandarunt." For the tribal assembly, see T. Annius Luscus, Oratio adversus Ti. Gracchum, in Festus 314, 30: "Imperium quod plebes . . . dederat." Also from Cicero, Leg. Agr. ii, 11, 28: "Vidit . . . sine curiata lege decemviros potestatem habere non posse, quoniam per novem tribus essent con-

The consuls and the praetor were elected by the centuries, and their *imperium* was sanctioned by the *curiae*. The dictator, too, was obliged to carry a curiate law.<sup>1</sup> But the quaestors, the curule aediles, and the other inferior patrician magistrates, after their election by the tribes, did not themselves convoke the *curiae* for sanctioning their election; the *lex* was proposed in their behalf by a higher magistrate.<sup>2</sup> As the origin of this custom we may suppose that the kings, and after them the higher magistrates of the early republic, used to ask the people for a pledge of loyalty not only to themselves, but also to their assistants, and that this custom continued even after these inferior officials had come to be elective magistrates. To functionaries who lacked the *imperium* the expression *lex de imperio* could not apply; *lex de potestate*, though not occurring in the extant sources, would be the appropriate phrase.

It has generally been assumed that the curiate law bestowed

stituti," we must infer that had these decemvirs been elected in the regular way, by the thirty-five tribes, they would have had the *potestas* without a curiate law. In § 29 he asserts that on the principle followed by Rullus, whom he is assailing, anyone could obtain the *imperium* or *potestas* without a vote of any *comitia*, for he does not consider the *comitia curiata* real *comitia*, seeing that they have degenerated into a mere form. From these passages it is clear that Cicero believed the *imperium* or *potestas* to be conferred by the centuries or tribes and merely confirmed by the *curiae*. Furthermore the phrase *nullis comitiis* in 11, 29: "Si hoc fieri potest, ut . . . quisquam nullis comitiis imperium aut potestatem adsequi posset," etc., implies that one may obtain the *imperium* or *potestas* in more than one form of *comitia*—either the *centuriata* or the *tributa*. This conclusion accords with the fact that the Tribal Assembly had power to abrogate the *imperium*; cf. Livy xxvii, 20, 11; 21, 1; 21, 4; xxix, 19, 6. Confirmation by the *lex curiata* is expressly asserted in Cicero, *Leg. Agr.* ii, 11, 27: "Curiatis eam (potestatem) comitiis . . . confirmavit."

<sup>1</sup> Livy ix, 38 *et seq.*; Dionysius v, 70, 4. To avoid unnecessary delay the sanctioning act was probably always kept free from the obligation of the *promulgatio per trinum nundinum*.

<sup>2</sup> The consuls proposed the curiate law for the quaestors; Tacitus, *Ann.* xi, 22. That these inferior officials required the law is further indicated by Cicero, *Phil.* ii, 20, 50. For the lower functionaries in general, see Gellius xiii, 15, 4. The agrarian *rogatio* of Servilius Rullus provided that the praetor should propose the law for the *decemviri agris assignandis* required for the administration of his measure; Cicero, *Leg. Agr.* ii, 11, 28. That the magisterial helpers who were in need of the curiate law included not only the quaestors but also the lictors seems to be indicated by Cicero, *Rep.* ii, 17, 31: "Ne insignibus quidem regiis Tullus nisi iussu populi est ausus uti. Nam ut sibi duodecim lictores cum fascibus anteire" (the remainder of



a power in addition to that received through election.<sup>1</sup> Something can in fact be said in favor of this view. We are told that the newly elected magistrate could attend to no serious public affair until he had secured the passage of the act;<sup>2</sup> until then the praetor could not undertake judicial business; the consul could have nothing to do with military affairs<sup>3</sup> or hold *comitia* for the election of his successor.<sup>4</sup> Some of Cicero's contemporaries asserted that a magistrate who failed to obtain the law could not as promagistrate govern a province.<sup>5</sup> Or if without a curiate law he made the attempt, he would be obliged to conduct the administration at his own expense;<sup>6</sup> and if as promagistrate he gained a victory in war, he was denied a triumph.<sup>7</sup> Under such conditions it might well be said that a magistrate could engage in no serious public business before he had carried for himself the sanctioning law. But practice diverged widely from these rules. An act containing a provision for the election of functionaries might include a dispensing clause to the effect that the persons elected should, in lack of a curiate law, "be magistrates in as legal a sense as those who are elected according to the strictest forms of law."<sup>8</sup> Yet even without this special provision the magistrate regularly attended to much business before passing the law. The first

(the sentence is missing). Dionysius ii, 62, 1 ascribes the introduction of the lictors to Tarquin the Elder. This curiate law, however, may not be thought of by Cicero and Dionysius as a mere sanction, but rather as a legislative act which called the lictors into being; cf. Mommsen, *Röm. Staatsr.*, I, pp. 372, n. 1, 613, n. 1.

<sup>1</sup> In the opinion of Lange, *Römische Altertümer*, I, pp. 300 *et seq.*, the election gave *potestas* only; the *lex curiata, imperium*. But this distinction finds no support in the sources.

<sup>2</sup> Dio Cassius xxxix, 19, 3.

<sup>3</sup> *Ibid.*; Cicero, *Leg. Agr.* ii, 12, 30: "Consuli si legem curiatam non habet, attingere rem militarem non licet"; Livy v, 52, 15: "Comitia curiata, quae militarem continent." These statements are not, as some have imagined, to the effect that the *lex curiata* confers military power upon the magistrate; cf. p. 506, *supra*.

<sup>4</sup> Dio Cassius xli, 43, 3.

<sup>5</sup> Cicero, *Ad Familiares*, i, 9, 25.

<sup>6</sup> Cicero, *Ad Atticum*, iv, 18, 4: "Appius sine lege suo sumptu in Ciliciam cogitat."

<sup>7</sup> *Ibid.*

<sup>8</sup> Such an article in favor of the *decemviri agris assignandis* appeared in the Servilian agrarian *rogatio* of 63 B. C.; Cicero, *Leg. Agr.* ii, 11, 29; cf. p. 505, *supra*.

public act of the consul was to take the auspices, to determine whether his magistracy was acceptable to the gods;<sup>1</sup> and another auspication was held for the meeting of the *curiae*.<sup>2</sup> It was his custom also to make vows to the Capitoline Jupiter and to hold a session of the Senate, both of which acts had to be auspicated.<sup>3</sup> These facts disprove the theory that the curiate law conferred the *auspicium*. In the first session of the Senate in a new consulate, not only religious affairs, but civil and military matters of great importance were discussed and finally arranged, all of which business was regularly managed without a curiate law.<sup>4</sup> As to other administrative acts it is probable that the want of the *lex curiata* never hindered the performance of necessary business, civil or military. In case of danger to the state the *interrex*, who wholly lacked the curiate law, or the consul before passing the law could doubtless take command of the army;<sup>5</sup> and it is significant that the unlimited *imperium* and *iudicium* were granted the magistrate not by the *curiae* but by the Senate.<sup>6</sup> The law was indeed considered indispensable to the dictator in 310 B. C.<sup>7</sup> It is generally assumed by scholars that C. Flaminius, consul in 217 B. C., lacked this sanction.<sup>8</sup> Their reason is the statement of

<sup>1</sup> According to Dionysius, ii, 5 *et seq.*, those who are entering upon an office pass the night in tents and in the morning under the open sky take the auspices. Livy xxi, 63, 10, states that the consul dons his official robe in his own house, but neither he nor any other authority intimates that the public auspices were taken in his private house, as Mommsen, Röm. Staatsr., I, p. 616, asserts.

<sup>2</sup> Livy ix, 39, 1.

<sup>3</sup> Livy xxi, 63, 9; Varro, in Gellius xiv, 7, 9.

<sup>4</sup> Rubino, Römische Verfassung und Geschichte, pp. 365 *et seq.*

<sup>5</sup> Mommsen, Röm. Staatsr., I, p. 612, n. 1.

<sup>6</sup> Sallust, Cat. 29: "Ea potestas per senatum more Romano magistratui maxuma permittitur, exercitum parare, bellum gerere, coercere omnibus modis socios atque cives, domi militiaeque imperium atque iudicium summum habere; aliter sine populi iussu nullius earum rerum consuli ius est"; Hist. i, 48, 22 (Dietsch): (The Senate decreed) "uti Appius Claudius cum Q. Catulo pro consule et ceteris quibus imperium est, urbi praesidio sint, operamque dent, ne quid respublica detrimenti capiat." The interpretation which includes Appius Claudius, the *interrex*, with those who possessed *imperium* is confirmed by Livy (i, 17, 5 *et seq.*), who informs us that the *imperium* of an *interrex* lasted five days.

<sup>7</sup> Livy ix, 38 *et seq.*

<sup>8</sup> Cf. Nissen, Beiträge zum römischen Staatsrecht, pp. 51 *et seq.*

Livy,<sup>1</sup> that he entered upon his office not at Rome but at Ariminum. The fact, however, that in this year he carried a monetary statute before his departure<sup>2</sup> proves that he began his official duties at Rome, and that Livy's tirade to the contrary is empty rhetoric. Probably because he set out without attending to the usual auspices, his political opponents were unwilling to admit that he had entered on his office. But the army obeyed his command, his name remained in the *fasti*, and his monetary law continued in force. Livy, while complaining at length of his failure to take the auspices, says nothing of the curiate law. His silence is significant.<sup>3</sup> We cannot be certain that the *lex curiata* was not passed in his case; but we have no right to imagine that it was not and then draw far-reaching deductions from our fancy.<sup>4</sup>

A more valuable instance is that of L. Marcius, elected praetor by the army in Spain in 212 B. C.<sup>5</sup> Although he could not have had a *lex curiata*, the Senate, while censuring the election because it transferred the auspices to the camp, did not make the want of the law a ground for declaring the promagistracy illegal.<sup>6</sup> A still more famous case is that of the magistrates of 49 B. C., who with the Pompeian party fled from Rome before carrying a *lex curiata*, and yet were not prevented by this circumstance from holding military commands during their year of office or of continuing in command into the following year as promagistrates.<sup>7</sup> A further instance is that of Pompeius, praetor in 63 B. C., who had no curiate law; nevertheless

<sup>1</sup> XXI, 63, 5 *et seq.*

<sup>2</sup> Festus 347, 14.

<sup>3</sup> Cf. Livy xxii, 1, 5 *et seq.*

<sup>4</sup> Nissen, *loc. cit.*, supposes, too, that Appius Claudius, consul in 179 B. C., went to the army without a curiate law and for that reason the soldiers refused to obey him; Livy xli, 10. Livy mentions the neglect of other formalities but makes no reference to the curiate act.

<sup>5</sup> Livy xxv, 37, 5 *et seq.*; cf. xxvi, 2, 1.

<sup>6</sup> Livy xxvi, 2, 2.

<sup>7</sup> Dio Cassius xli, 43. In this instance the Senate had conferred dictatorial power upon the magistrates by its supreme decree; Caesar, *De Bello Civili*, i, 5. That they were constitutionally in command, whereas the general direction of affairs by Pompey, however autocratic, was only informal, is expressly stated by Dio Cassius, xl, 43, 5. What Nissen, *Beitr. z. röm. Staatsr.* pp. 53 *et seq.*, says of these magistrates' lack of military *imperium* is therefore baseless.

as proprætor in 61 he governed Narbonensis, where he gained a victory over the Gauls. This fact, too, is evidence that the want of the law did not in practice debar from military commands. From 58 to 54 B. C. he waited outside the gates of Rome for a triumph. The Senate would not grant it, and some opposed it. The privilege was at last given to him by the tribal *comitia* under prætorian presidency.<sup>1</sup> Although the want of the law involved him in inconvenience, he finally accomplished his purpose without it. Appius Claudius, consul in 54 B. C., insisted that, should he fail to carry the sanctioning act, he should nevertheless, since he was in possession of a province decreed to the consuls of his year in accordance with the Sempronian plebiscite, have *imperium* by virtue of a Cornelian statute until such time as he should reënter the city.<sup>2</sup> The law of Sulla, to which he referred, probably stated simply that the promagistrate was to retain his *imperium* till his return to the city, without mentioning the curiate law in this connection; and for that reason Appius believed the sanctioning act to be unnecessary. Cicero, who informs us of this matter, inclines to the interpretation of Appius. Our conclusion, accordingly, is that in practice, if not in legal theory, the *lex curiata*, however convenient it may have been, was not essential to the government of a province or to a military command.

It remains for us to consider whether it was indispensable to the holding of *comitia centuriata* for elections. The same Appius Claudius maintained that, though a curiate law was appropriate to the consul, it was not a necessity,<sup>3</sup> implying that without it he was competent to perform all the consular functions. He and his colleague, therefore, who was equally with-

<sup>1</sup> Cicero, Ad Atticum, iv, 18, 4; Ad Quintum Fratrem, iii, 4, 6; Dio Cassius xxxvii, 47; xxxix, 65.

<sup>2</sup> Cicero, Fam. i, 9, 25; cf. Q. Fr. iii, 2, 3. To these cases may be added that of the magistrates of 49 B. C., who notwithstanding their want of a curiate law continued into the following year as proconsuls, prætors and proquaestors; Dio Cassius xli, 43.

<sup>3</sup> Cicero, Fam. i, 9, 25: "Appius . . . dixit . . . legem curiatam consuli ferri opus esse, necesse non esse."

out the law,<sup>1</sup> were ready to hold *comitia* for the election of successors; and although party complications impeded the election, no one objected to it on the ground that the consuls were incompetent; for postponing the election the opponents resorted to auspical obnuntiations<sup>2</sup> and to prosecutions of the candidates for bribery.<sup>3</sup> The competence of these consuls to hold the elective *comitia* was further established by the Senate's desire that they should hold them at the earliest possible moment.<sup>4</sup> Their ultimate failure to elect successors was not owing to any objection to their competence.<sup>5</sup>

Scholars have attached great weight to the case of the magistrates of 49 B. C., who with the Pompeian party, as has been stated,<sup>6</sup> left the city before carrying a *lex curiata*. Though desiring, in the Pompeian camp of Thessalonica, to hold *comitia* for the election of successors, it was decided that the want of the law rendered the consuls incompetent to the function.<sup>7</sup> But the case requires careful examination. The Pompeians had with them two hundred senators, enough in their opinion to constitute a quorum, and their augurs had consecrated a place for taking auspices; so that it was assumed that the *populus Romanus* and the entire city were now located in the camp.<sup>8</sup> All these circumstances clearly imply an intention to

<sup>1</sup> Cicero, Att. iv, 17, 2.

<sup>2</sup> Cicero, Att. iv, 17, 4; Q. Fr. iii, 3, 2.

<sup>3</sup> Cicero, Att. iv, 17, 3 *et seq.*; 18, 3; Q. Fr. iii, 2, 3; 3, 2 *et seq.*

<sup>4</sup> Cicero, Att. iv, 17, 3.

<sup>5</sup> The compact (Cicero, Att. iv, 17, 2) made between Appius and his colleague in the consulship, 54 B. C., parties of the first part, and Memmius and Domitius, candidates for the consulship for the ensuing year, parties of the second part, that the parties of the second part in the event of their election should produce three augurs to testify that the parties of the first part had proposed and carried a *lex curiata*, or in failure to produce the witnesses should forfeit to the parties of the first part a specified sum of money, assumes, inasmuch as the evidence was not to be forthcoming till after the election, (1) that the *lex curiata* was not essential to holding the elective *comitia*, but (2) that it was highly advantageous to the promagistrate. Cicero, who often refers to the postponement of the elective *comitia* of this year, never intimates that the want of a *lex curiata* stood in the way.

<sup>6</sup> Page 510, *supra*.

<sup>7</sup> Dio Cassius xli, 43, 3; Livy v, 52, 15 proves that the *comitia curiata* could meet only within the *pomerium*.

<sup>8</sup> Dio Cassius xli, 43, 2.

assume a temporary transfer of the city of Rome to the camp and to conduct the government in that place on the basis of this constitutional fiction. The execution of the plan was arrested by the plea that the consuls had no curiate law. The difficulty, however, was not so serious as Dio Cassius and the moderns have supposed. The assumption of the Pompeians that the city of Rome temporarily existed in the camp implied as well the existence of a *pomerium*, within which the consuls could legally have held a meeting of the *curiae*.<sup>1</sup> Or, in case they felt any scruple about the matter, the Senate could have decreed the consuls a dispensation from the law for the purpose of holding the elections. That they allowed a mere formality to balk them is out of the question. The whole situation is made clear by assuming that the consuls themselves, or more probably Pompey, did not wish elections to be held or a civil government established in the camp; such a proceeding would have disturbed still more the discipline of the army and would have roused jealousies inimical to the cause. On this interpretation the objection of the want of a law, which was clearly an afterthought, appears to have been a mere pretext.

We have seen promagistrates whose election to their respective offices had not been sanctioned by the *curiae* governing provinces and holding military commands; we have seen consuls who lacked the curiate sanction attending with less inconvenience to all their official duties. The same looseness characterized the application of the law to minor officials. The want of the sanction legally involved curule aediles, quaestors, and all other patrician officials who lacked the right to convoke the *curiae*; and yet it is impossible that in 54 B. C., for instance, when the consuls failed to pass the law, the curule aediles and the quaestors should have remained inactive through the entire year without leaving in our sources some trace of the disturbance which would have been caused by the suspension of their administrative functions. Dio Cassius states that no judicial process could be undertaken before the enactment of

<sup>1</sup> Livy vii, 52, 15.

the law; nevertheless Clodius as aedile in 56 prosecuted Milo before the people prior to the vote of sanction.<sup>2</sup> The quaestors entered office regularly on December 5;\* and as the curiate law was carried for them by the consuls, they were necessarily in official duty for some time every year before their election could be sanctioned. It seems clear that ordinarily one curiate law was passed each year, under the joint presidency of the consuls and praetors, for all the officials who required it.<sup>3</sup> If that is true, a postponement of the law, or a failure to pass it, affected all the magistrates of the year. In the opinion of Mommsen,<sup>4</sup> the custom of the later republic was to propose the law on or soon after March 1. If this supposition is correct, the entire administration was conducted through at least a sixth of every year without the curiate sanction.

The question as to the meaning of this wide divergence between constitutional theory and actual practice can find an answer only in the history of the Curiate Assembly. For a time after the founding of the republic it remained politically important. From the institution of the plebeian tribunate (494 B. C.) to the enactment of the so-called law of Publilius Volero (471 B. C.) the Curiate Assembly elected tribunes of the plebs.<sup>5</sup> In 390 B. C., according to Livy,<sup>6</sup> it voted the restoration of a citizen from exile. Rubino<sup>7</sup> maintained that this assembly continued to be a real gathering of the people to the year of the battle of Cannae, 215 B. C., when the exigencies of the war with Hannibal brought into being a statute whereby the curiate

<sup>2</sup> Dio Cassius xxxix, 19, 3. The date of the trial was February 7, 56; Cicero, Q. Fr. ii, 3, 2.

<sup>3</sup> Lex Cornelia de XX Quaestoribus, in *Corpus Inscriptionum Latinarum*, i, 202; Cicero, *In Verrem*, i, 10, 30; Scholiasta Gronovianus, p. 395. Mark Antony when quaestor performed the functions of his office through the entire year without the sanction; Cicero, *Phil.* ii, 20, 50.

<sup>4</sup> It is always spoken of in the singular, the implication being that one act served for all; cf. especially Caesar, *De Bello Civili*, i, 6; Dio Cassius xxxix, 19, 3.

<sup>5</sup> *Röm. Staatsr.* i, p. 611.

<sup>6</sup> Cicero, *Fragmenta*, A, vii, 48: "Itaque auspicio . . . tr. pl. comitiis curiatis creati sunt"; Dionysius vi, 89, 1; ix, 41, 2; cf. Livy ii, 56, 2.

<sup>7</sup> V, 46, 10.

<sup>8</sup> *Röm. Verf. u. Gesch.* p. 381 and n. 2.

act was to be passed by a vote of thirty lictors as the representatives of their respective *curiae*; in consequence the sanction was reduced to a formality.<sup>1</sup> The passage in Festus on which his theory depends is seriously mutilated; and his attempted restoration is objectionable, chiefly, (1) because it required no statute to keep the people from attending the *comitia curiata*,<sup>2</sup> (2) because without a statute a resolution of an assembly was valid, if each voting division was represented by a single person,<sup>3</sup> (3) because the measure, if dictated by military exigencies, should have freed the commander rather than the men from the necessity of going to Rome to enact the curiate law. Mommsen's restoration<sup>4</sup> is very different. In his opinion although the *lex curiata* had never been essential to the mere prolongation of the *imperium*, it was necessary to a person who passed without interval from a magistracy to a promagistracy or the reverse. The measure of 215 B. C., according to his reading, rendered the renewal of the curiate law unnecessary to such a transition. The passage in Festus is past healing; but in favor of Mommsen's interpretation we can certainly infer from the extant fragment (1) that in the year mentioned, owing to the nearness of Hannibal, a measure was taken to relieve officers in the field from the necessity of coming to Rome to propose the law for themselves, and (2) that the regulation was permanent.<sup>5</sup> Probably it was effected through a *senatus con-*

<sup>1</sup> Based on his reading of Festus 351, 34: "(Triginta lictoribus 1) ex curiata fertur; quod Hanni(bal in propinquitate) Romae cum esset, nec ex praesidi(is discedere liceret), Q. Fabius Maximus Verru(cosus egit per tr. pl. et Ma)rcellus cos. facere in(stituit)."

<sup>2</sup> The attendance on the *comitia tributa* was sometimes as low as five to the tribe; Cicero, Pro Sestio, 51, 109.

<sup>3</sup> Cicero, Leg. Agr. ii, 7, 16 *et seq.*

<sup>4</sup> "(Transit imperium nec denuo 1)ex curiata fertur, quod Hanni(bal in vicinitate) Romae, cum esset nec ex praesidi(is tuto decedi posset), Q. Fabius Maximus Verru(cosus M. Claudius Ma)rcellus cos. facere in(stituerunt)"; *Rheinisches Museum*, N. F. xiii (1858), pp. 565 *et seq.*; Röm. Staatsr. I, p. 613, n. 3; *cf.* also Bergk, *Rhein. Mus.* XIX, p. 606; Herzog, *Geschichte und System der römischen Staatsverfassung*, I, p. 679. "Transit imperium" is rendered doubtful by the proof offered in this paper that the *lex curiata* did not confer the *imperium*.

<sup>5</sup> The second inference is from the present tense of the verb *fertur*.



*sultum*.<sup>1</sup> In consenting to the arrangement the Senate was making a great sacrifice to the exigencies of the situation. For, to maintain control over the commanders, it had insisted that they should enter upon their magistracies with all due formality at Rome.<sup>2</sup> The *lex curiata* had proved a material help to this end. But now the person already in command might continue from year to year at his post, relieved of the need of coming to the capital, where he would be temporarily subject to senatorial control.

This provision of 215 B. C. detracted from the value of the curiate law. Probably after this event, and partly in consequence of it,<sup>3</sup> the *comitia curiata*, which had been long declining, became at last a formality, attended only by three augurs, as witnesses to the proceedings,<sup>4</sup> and by thirty lictors,<sup>5</sup> who meekly cast the votes in obedience to the command of the presiding magistrates.<sup>6</sup> It is a noteworthy fact that whereas the statesman Cicero has much to say of the curiate law, Livy and Dionysius make little reference to it. Our conclusion must be that it was more important in the late republic than in earlier times. Probably it fell nearly into disuse after 215 B. C., to be revived some time before Cicero. Its rehabilitation was the work of the optimates, for we find the senatorial party chiefly interested in maintaining it during the age of Cicero. Since the *lex curiata*, subject as it was to impetrative auspices and obnuntiations, correlated closely with the Aelian and Fufian statutes, we may reasonably connect its revival immediately with their origin. Cicero<sup>7</sup> tells us accordingly that the *comitia curiata* have continued merely for the sake of the auspices.

<sup>1</sup> Herzog, Röm. Staatsverf. I, p. 679. A plebiscite is assumed by Lange, Röm. Alt. II, p. 704.

<sup>2</sup> Cf. Livy xxi, 63; xxii, 1.

<sup>3</sup> The existence of the act of 215 B. C. proves that the Curiate Assembly and the curiate law were at the time something more than a formality.

<sup>4</sup> Cicero, Att. iv, 17, 2; cf. p. 512, n. 5, *supra*.

<sup>5</sup> Cicero, Leg. Agr. ii, 12, 30.

<sup>6</sup> That the *comitia curiata* were no longer attended by the people in the time of Cicero is proved by his treatment of that assembly in Leg. Agr. ii, 11 *et seq.*

<sup>7</sup> Cicero, Leg. Agr. ii, 11, 27.

The curtailment of the power of this assembly is analogous to the curtailment of the power of the king. The latter was reduced, in the *rex sacrorum*, to a shadow, continued merely for a religious purpose. The curiate *comitia* were likewise reduced to a shadow, maintained ostensibly because of regard for ancient custom and religion<sup>1</sup> but in reality as a part of the religious machinery operated with more or less effect for controlling refractory office-holders. During the age of Cicero the Senate strove to uphold its theory of the necessity of the law, while individuals in office and even the entire group of magistrates for the year looked upon it as appropriate indeed but unessential to their functions. At its best the theory could be but partially realized in practice.

Naturally the lictors never refused to vote the *lex curiata*, but it was often prevented or delayed by the veto of the plebeian tribunes.<sup>2</sup> As we hear nothing of such action of the tribunes in the early republic, we may conclude that it was a late usurpation. Their veto could be offset by a special resolution of the people that the persons elected "shall be magistrates with the same degree of legality as those who are elected according to the strictest form of law."<sup>3</sup> In destroying the tribunician power Sulla, perhaps consciously, strengthened the curiate law as a weapon in the hands of the Senate. He did not treat the subject, however, with his usual precision; for in 54 B. C. we find Appius Claudius appealing to a Cornelian law in justification of his intention to govern a province without the curiate sanction.<sup>4</sup> The procedure of Appius must have robbed the act of the little vitality which it still possessed. With the downfall of the republic it fell completely into disuse.<sup>5</sup>

GEORGE WILLIS BOTSFORD.

<sup>1</sup> Cicero, Leg. Agr. ii, 12, 31: "Illis (comitiis) ad speciem atque ad usurpationem vetustatis per xxx lictores auspiorum causa adumbratis."

<sup>2</sup> Cicero, Leg. Agr. ii, 12, 30; cf. Dio Cassius xxxix, 19, 3.

<sup>3</sup> Cicero, Leg. Agr. ii, 11, 29; cf. pp. 505, 508, *supra*.

<sup>4</sup> Cicero, Fam. i, 9, 25; p. 511, *supra*.

<sup>5</sup> Herzog, Röm. Staatsverf. II, p. 905.

## REVIEWS

*International Law : A Treatise.* By JOHN WESTLAKE. Cambridge University Press, 1907. — Two volumes : xii, 356 ; xiv, 334 pp.

In 690 small octavo pages Professor Westlake has undertaken to set forth such "a knowledge of the most important topics" of international law as may enable the "English University students and average Englishmen interested in public affairs to appreciate the discussion on other topics as they arise in the foreign affairs of the country." Perhaps no work has been written on the leading topics of international law which is more likely to enable its readers to reason sanely upon the "other topics" of the subject. The work is "not intended as an encyclopædia of international law." It has none of the encyclopædic defects of many treatises. There is no hurried dictionary description of the numerous matters of international law. The fundamental principles are pointed out, analyzed and applied with such leisurely care, thoughtfulness and common sense that it is difficult to see how any reasoning person, layman or lawyer, can arise from the study of these two little volumes and lack the power to reason readily and well upon the "other topics" and questions cognate to those presented by Professor Westlake. It is a treatise eminently suited for use in connection with a good case-book by students and teachers who believe that the chief object of courses in law is to provide a training in correct methods of legal reasoning.

The object of the author is primarily educational, but the work represents the mature thought of a great legal scholar. It will undoubtedly be frequently cited by statesmen and judges and it will have a large influence upon the development of the law. It is, indeed, a veritable storehouse of sound doctrine. The only defect observable in the work, if it be permitted to criticize adversely one who has demonstrated himself a master, is the somewhat obscure language in which the thought has at times been expressed. By an occasional inverted construction of his sentences, unhappy choice of some unimportant words, the combining in one sentence of thoughts which might be better expressed in two or more sentences, or by punctuation which fails to guide a reader's understanding, Professor Westlake has entailed

upon his readers the necessity of re-reading some of his sentences; and he has made it impossible to quote his opinions without a loss of much of the force which their insight and soundness should give them.

It is refreshing to find throughout the treatise that the author has, as he states in his preface, "not attempted a deductive treatment" by reasoning from any of the conventional postulates, such as sovereignty, inherent rights, *etc.* The subject-matter of his reasoning is always a principle which he has induced from a particular historical fact. He recognizes that the earlier development of international law was "assisted by theories of a law of nature and nations," but he contends always that "what is good in such theories survives under the name of justice, a ground more solid but less capable of being systematized."

It is, therefore, with interest that one turns to the chapter entitled "The Political Action of States," in which the author discusses the distinction between the legal and political claims of states, the balance of power and the rights of self-preservation, intervention, equality and independence. Speaking of the "inherent rights of states," he points out the only matter-of-fact meaning which the term "inherent rights" possesses as applied to individual rights, and then concludes that "the tendency now is to treat international law as being relative to what is called 'the modern state,'" and that the modern state is "not fixed enough to make it wise to endow it with inherent rights instead of working out the problem which concerns it on its particular merits." Mr. Westlake next discusses "the alleged inherent right of self-preservation" by pointing out the restriction which every dictate of civilized justice places upon its exercise (*vis.*, "a duty violated by the person who has to suffer" harm), and observes that "self-preservation, when carried beyond this point, is a natural impulse" which it is "the office of jural law not to register and consecrate, but to control" by the application of sound principles of justice wherever and whenever an unreflecting submission to such untamed impulses would be destructive of society.

In speaking of the political action of states, the author says: "It is important to notice that the notion of sovereignty or independence has become the object of an extreme, possibly exaggerated, respect." In the reviewer's opinion, this "extreme respect" is not without practical value (so long as it does not mislead publicists), for it tends to increase the burden of the justification which the great powers feel called upon to make when taking political action. In comparing the Monroe doctrine (volume 1, page 311) with the European doctrine of the balance of power, Mr. Westlake considers that it bears a different

relation to international law, because it "has not been systematically carried out by enforcing on the other American states arrangements in which they were not consulted, and there are signs that those states would not allow it to be so carried out. Consequently it must stand, at least for the present, as a policy" of the United States.

The author discusses with keen insight the methods of redress accorded to states. He shows the natural limits of arbitration by pointing out the difference between "legal" and "political" questions and by noting that questions arise in which the law itself is the matter in controversy, as in the Alabama cases. He considers that general arbitration treaties should always contain "some reservation," because "every refusal to apply a general arbitration treaty in a case to which it ought to be applied would embitter the original difference, by adding a charge of bad faith to the original cause of difference"; and hence he believes that such treaties had best be limited to the "states which can count on one another to work them in good faith." War he defines as "the state or condition of government contending by force"—a definition which recognizes that the laws of war may belong to insurgents as well as to states. In pointing out the meaning of the terms "reprisal," "embargo" and "retaliation," he notes that they are ill distinguished. He traces succinctly the development of pacific blockade and concludes that "as against the quasi-enemy it is too well established as a recognized institution to be longer attacked with serious hope of success," but that "as against quasi-neutrals the legal position of pacific blockade must be considered as still ambiguous with the exception that there can be no condemnation." He considers that pacific blockade "increases the power of the strong over the weak; and by confusing the bounds of the use of force in time of peace, it impairs the certainty which is so important in international relations."

Of the second volume six chapters deal with belligerents, four with neutrals and the last chapter contains a discriminating statement and interpretation of the conventions formulated at the Second Hague Conference. Like the other chapters of the work they contain some new matter and much that is new in the way the old matter is treated. Chapters four and five are devoted largely to a discussion of the conventions of the First Hague Conference relating to war on land. The author's treatment of the law developed in prize courts is largely confined to Anglo-American precedents. His discussion of the theory and history of neutrality is characterized by a discriminating search for the principles and rules of law which may receive practical application in the solution of new cases.

His appreciation of the rigorous distinction which a lawyer should make between principles of policy and of law and rules of law is well illustrated when he writes :

In order to pass from the principle to the rule it is necessary to seek as clear an understanding as possible of what is real participation in war, and we should launch into a vagueness productive of controversy rather than of enlightenment if we carried that notion further than participation in a specific operation of war. Hence,

Neutrality enjoins abstinence from taking part in any operation of war, and from interfering with any operation of war which is legitimate as between the belligerents, but not abstinence from any thing merely because it strengthens a belligerent.

For instance, siege being a legitimate operation of war as between belligerents, neutrality enjoins abstinence from introducing supplies into any place which is under siege, but it does not enjoin abstinence from general commerce with either belligerent, although commerce enriches and therefore strengthens those with whom it is carried on. For instance, again,

A neutral state must not permit either its subjects or a belligerent to make any such use of its territory as amounts to taking part in an operation of war [volume ii, page 163].

The three famous rules of the Treaty of Washington appear to Mr. Westlake "to be sound, both of the things which they declare ought to be prevented, and the vigilance which they declare ought to be used in their prevention." He does "not think that there was any miscarriage in their application to the case presented at Geneva, but," he philosophically observes, "however that may be, the possibility of miscarriage is incident to all judicial proceedings, to international arbitration not less than to others; and England, which has been so often successful in international arbitration . . . can look on their total result with equanimity."

Mr. Westlake is in his eighty-first year. He has just resigned the professorship of international law at Cambridge University which he has occupied for the past twenty years. His pioneer treatise in the English language on private international law was first put forth in 1858; three years ago he published the fourth edition of it; and in the preface of the treatise now under review he suggests that this work may "be followed by a volume dealing with . . . the history of international law." May the hope be realized!

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*A Treatise on the Law of Naturalization of the United States.*

By FREDERICK VAN DYNE. Washington, Frederick Van Dyne; New York, The Lawyers' Coöperative Publishing Company, 1907. —xviii, 528 pp.

Mr. Van Dyne was for many years the principal authority in the Department of State upon questions of citizenship and naturalization. In 1904 he published a volume on *Citizenship of the United States*, to which the present work is intended by the author "as a companion volume." He states that this

work is specially designed to meet the needs of judges and clerks of courts having jurisdiction in naturalization matters, of United States attorneys who appear for the government in naturalization proceedings and in proceedings to set aside or cancel naturalization certificates, of diplomatic and consular officers and other officers in the various branches of the government service dealing with questions relating to citizenship and naturalization.

We are told in the preface that the "numerous modifications of our laws, and the lack of any comprehensive work on the subject of naturalization have influenced the writer" to prepare an independent treatise. The first naturalization act was passed by Congress in 1790. The qualifications for admission to citizenship prescribed by this act have remained substantially the same, barring the short period in which the act of 1797 was in force, and the method of administration which it prescribed remained practically unchanged until the sweeping modifications enacted in 1906 and 1907. The changes in the conditions which have necessitated a change in the method of administering our naturalization laws are mentioned by the author. The population has increased from less than four millions to nearly eighty-seven millions. Our policy then was to encourage immigration; now it needs no encouragement. The lax and unsatisfactory administration of the naturalization law which took place during this period offered opportunities for fraud, forgery, false impersonation and traffic in false and counterfeit certificates of citizenship.

In the preparation of his work, Mr. Van Dyne has brought together a large number of the decisions of the courts and a larger number of the state department rulings. He has also taken note of the decisions made by international commissions. He describes the various methods of becoming a naturalized citizen and discusses in much detail the normal method of obtaining citizenship papers now made necessary by the additional requirements of the law of 1906. He outlines this process with

minuteness, setting forth not only the requirements of the law with reference to the applicant, but also the duties which are imposed upon the courts granting such papers, as well as upon the new Bureau of Immigration and Naturalization. Other chapters discuss the question of naturalization by the naturalization of the parent, naturalization by marriage and collective naturalization, including naturalization by conquest, by treaty, by special act of Congress and by admission of territory to statehood. Two chapters are devoted to expatriation and passports and there is a concluding chapter setting forth the attitude of various foreign governments toward their citizens who have become naturalized citizens of the United States and have returned to their native jurisdictions. The book may be adversely criticised for its somewhat defective organization, the long quotations from documents and cases and the failure to give a list of the cases cited.

An appendix contains all the laws of the United States relating to naturalization and expatriation, the naturalization conventions to which the United States is a party, recent executive orders of the president based upon the expatriation law of 1907, the naturalization regulations of the Department of Commerce and Labor and a list of foreign countries and their rulers.

HENRY B. ARMES.

WASHINGTON, D. C.

*The Province of Burma.* By ALLEYNE IRELAND. Boston and New York, Houghton, Mifflin and Company, 1907.—Two volumes : xxi, xvi, 1023 pp.

These are the first volumes of a series entitled *Report on Colonial Administration in the Far East*, foreshadowed by the same author's book on *The Far Eastern Tropics*, to which the undersigned gave some consideration in a general discussion of recent Philippina that was printed in this journal two years ago.<sup>1</sup> In 1901 Mr. Ireland was commissioned by the University of Chicago to visit the colonial possessions of Great Britain, Holland and France which are situated in that portion of the world where the Philippine Islands lie and which present similar problems, racially and otherwise, and to prepare a set of comparative reports on the government of these possessions and of the Philippines. Mr. Ireland spent some two years (1902-1904) in visiting, for the first time, Hongkong, British North Borneo, Sarawak,

<sup>1</sup> Vol. xxi, page 288.



Burma, the Straits Settlements, the Federated Malay States, Java, French Indo-China and the Philippines, also spending some portion of this time in India, China and Japan. He announces that he made during this period a collection of some five thousand volumes, consisting of government reports, gazettes, *etc.*, relating to the different countries that were the subjects of his investigations.

In his general preface to the series, he makes it plain that his primary purpose is to present data whereby administrative methods and their results in these various tropical possessions can be considered comparatively, so far as varying circumstances will permit. This plan, if consistently adhered to and well executed, will, as he points out, result in a work quite distinct in content from any hitherto produced in the study of colonization and altogether unique in its own geographical field. The analytic and comparative portions of the work are, moreover, to be brought out separately in two volumes which will close the series. The volumes devoted to the different possessions above named, said volumes not to exceed ten in number, will follow as nearly as possible a uniform table of contents, covering the following headings: General description of the dependency, its geography, physiography and climate; history of the acquisition by the sovereign power; the form of government; the people of the dependency; general administrative system; judicial administration; police administration; financial administration; medical administration; forest administration; public instruction; municipal administration; public works; civil service; trade and shipping; labor supply; bibliography; statistical tables.

Judging by these volumes on Burma, Mr. Ireland's work in presenting data on the foregoing lines for each of the possessions treated will be, in large degree, to abstract and condense the official reports, laws, administrative orders, *etc.*, that are in his hands. Unofficial publications are, of course, not excluded, but their use is in the main limited to the historical, physiographical, ethnological and similar portions of the work. This being the case, and the editorial work of analysis and comparison being reserved for the final volumes, judgment upon the undertaking is for the present restricted to the wisdom shown in the selection of material and the form of its presentation.

British India proper falls outside of the scope of this work and has, moreover, been quite thoroughly treated by Strachey and others. But, in presenting the facts as to the administration of Burma, the discussion with great regularity turns on British policy and methods in India; hence much of the space of these two volumes is occupied with ab-

tracts or documents regarding the general features of British administration of India. For example, two very useful additions to Volume I, wherein civil service and public instruction in Burma are treated, are the report of the Macaulay commission on the Indian civil service (1854) and the resolution of the government of India, adopted in 1904, on the subject of Indian educational policy. We have also, among the appendices, mainly statistical, one giving details regarding examinations for the Indian civil service, including sets of questions for 1904. Upon the important question of the employment of natives in the civil service, a long quotation from a note of a former governor of the Punjab is given; but nowhere do we find statistics, or definite data of any sort, regarding the number of Burmese employed in the administration of their country, the posts which they fill, *etc.*

The administrative mechanism, the finances, trade figures, *etc.*, make up the major portion of the second volume on Burma, which is more largely statistical in character than the first volume. In chapter xiii, preceding a very good exposition of the land-revenue system, agricultural credit, *etc.*, in Burma, the land-revenue policy of British India in general is very adequately set forth by reproducing, in nearly complete form, the resolution of the governor-general of India in council of January 16, 1902.

In discussing the burden of taxation resting upon the people of Burma, the editor has more explicitly set forth (pages 570-573) his reasons for adopting as a basis of comparison in Indo-Malaysia the ratio of taxes to total exports rather than to population. In his *Far Eastern Tropics*, he rejected the ordinary comparison of taxes *per capita* as inapplicable to tropical countries, and one of his most widely quoted criticisms on our Philippine government was that which represented the annual burden of taxation to be equal to 46 per cent of the exports. The reasons Mr. Ireland now gives, in the place above cited, appear very cogent as regards the misleading nature of *per capita* tax comparisons between tropical communities and the industrially developed nations of the temperate zones. But who would build conclusions on such comparisons, in any event? And Mr. Ireland has not made out a case against the validity of comparisons of the *per capita* tax as between these tropical communities themselves, which is the real matter in point. However, his ratio of taxes to exports is, in any case, a valuable basis of comparison; and discussion of his methods in this respect must, of course, await the appearance of the reports on the other countries, and especially of the volumes devoted to comparative analyses.

The volumes on Burma promise thorough and painstaking editing for the series. Each has a good map, the first being one of Burma, the second of that portion of the Far East which comprises the countries dealt with in this work. Volume II closes with an extensive classified bibliography of Burma, a glossary of Indian and Burmese words used in the work, and an excellent index.

JAMES A. LEROY.

*Histoire de l'expansion coloniale des peuples Européens: Portugal et Espagne (jusqu'au début du xix<sup>e</sup> siècle).* By CHARLES DE LANNOY and HERMAN VAN DER LINDEN. Brussels, Lamertin, 1907. —viii, 447 pp.

In view of the surprisingly small amount of literature on the general history of European colonization, special welcome is to be given to the work performed and projected by the two Belgian educators, de Lannoy and van der Linden, the former of whom is connected with the University of Ghent and the latter with that of Liège. The volume under review belongs to a series now in preparation, which is to cover the entire period from ancient times to the present day. Judging from this first instalment, the work is to be a history not of colonization or of colonies as such, but rather of the processes by which distant territories were acquired by the several European peoples, of the manner in which the task of colonization was performed and of the effects produced upon the colonizing countries. In the monographs on Portugal and Spain the arrangement of topics is substantially the same. Each begins with a description of the mother country on the eve of colonial enterprise and then traces the process of expansion in its several phases. The second part treats of the administration of the colonies and of the economic system established therein, and gives a fleeting glimpse of the transplantation of Portuguese and Spanish culture. In the third part the influence of the successive periods of colonization upon the metropolis is discussed. A bibliography and a number of outline maps are to be found at the end of the volume.

Neither of these monographs can fairly be termed a product of critical research. As the authors frankly admit in their preface: "The synthetic character of our subject has not allowed us to make use, save in exceptional cases, of manuscript materials." The treatises, therefore, contain nothing that is strictly new, and throw no light on the many problems which are still to be solved by the study of documents buried in the archives of Portugal and of Spain. Instead, a

successful effort has been made to present in an orderly and scientific form the results already attained by scholarly investigation. To that end the writers assert that they have omitted from the materials used "no collection of printed documents and none of the important works." An examination of the bibliography, however, shows that this statement is inaccurate. Not less than eight valuable collections and at least twenty authorities of primary and secondary importance are omitted. Still, the number of serious errors in the monographs is small, the generalizations are in the main sound, and the bibliography and maps are as satisfactory as could be expected in a work which makes no pretensions of originality. Of its superiority to the productions of Dubois, Zimmermann, Morris and others there can be no doubt if the succeeding instalments attain the standard set by this volume.

The defects which characterize works of this class dealing with Spain and Portugal are, in general, the treatment of colonial life and industry as an array of annalistic statistics, and of colonial administration as an inert mass of wheels within wheels that seem never to go round. How the colonies were actually governed; what the colonists did at work and at play; how the mother country stamped her image upon them, and to what extent the lineaments of that image were modified by contact with local forces—these are the matters that interest the reader of to-day. Nothing very exhaustive and definitive can be expected, however, until the writers on Spanish and Portuguese colonization cease copying their predecessors or gleaning in fields already harvested, and seek trustworthy information in the archives which those predecessors rarely thought it necessary to visit.

WILLIAM R. SHEPHERD.

*Modern Spain, 1815-1898.* By H. BUTLER CLARKE. Cambridge, The University Press, 1906.—xxvi, 510 pp.

During the nineteenth century few countries of Europe have had a history so involved, so changeful and withal so dramatic as that of Spain. To the numerous works already existing on the subject is to be added the monograph by the talented but unfortunate Butler Clarke. Though the sudden death of the author prevented his revision of the proof sheets, practically all the slight errors or disputable statements that appeared in the manuscript have undergone careful correction at the hands of experts. The book opens with an excellent summary of the situation in Spain at the end of the eighteenth century and the

beginning of the nineteenth. Then follow the story of the restoration of absolutism under Ferdinand VII, the uprising of 1820 and its suppression, the difficulties connected with the question of the succession, and the first of the Carlist wars. From that point onward the reader is guided through the mazes of Spanish party politics, foreign intrigues, military ebullitions, pronunciamientos, ministerial dictatorships and court scandals which characterized the reign of Isabel II. The concluding chapters describe the troublous times of the short-lived republic and of the equally short-lived kingship of the unhappy Amadeo of Savoy, the recall of the Bourbons in the person of Alfonso XII, and the regency of Maria Cristina up to the destruction of the remnants of Spanish colonial dominion. The bibliography, with which the volume closes, has the merit of including the works that the author had tried and tested for their accuracy and usefulness.

That Butler Clarke knew Spain and loved it in spite of its apartness, or perhaps because of this quality, is apparent on all his pages. It may be doubted whether any Spaniard has surpassed this English scholar in correct appreciation of old Spain, or in clear comprehension of the vicissitudes of that semi-mediaeval country while passing from the old order of things to the new, which is yet not altogether new. His power to tell a story simply, lucidly and impartially, his ability to characterize humanity in its peculiar Spanish mold and his accuracy in statement and conclusion all qualified him to handle a theme that needs a master hand for its delineation. No writer has given us an estimate of the Spain of to-day and of to-morrow terser in expression, truer in assertion and more keen-sighted in prophecy, than that contained in the closing paragraph of the book :

Spain's hope of peace and prosperity depends on the purification of her administration, on the limitation of the activities of the Church to their proper sphere, on the creation of a feeling of confidence which shall allow better terms to be made with the national creditors, and shall set free for agricultural, industrial and commercial enterprise the huge capital now absorbed by state loans. Then, and not till then, will the most profitable Spanish enterprises be worked by Spanish capital and to Spain's advantage; then will Spain's most essential industry, agriculture, turn its energies to supplying the permanent home market, selling Spanish goods under Spanish names, instead of looking to the adventitious needs of its neighbours as its mainstay and sending out wines and oils that are the raw material for skilled manufacture. Then will labour turn to its task, undiscouraged by the knowledge that a hungry and corrupt governing class has ever an eye to its slender profits. Spain will be able to laugh at those who, standing

on either hand, urge upon her a theocracy or a commune. But many things are still to be done before honest Republicans cease to rail and honest Carlists to hope.

It is to be regretted that the book adheres so closely to the traditional lines of old-fashioned political history as to leave no room for an adequate account of the modification that is taking place in Spanish customs and institutions. The adjustment of Spanish life to modern ideas and methods—an adjustment which, though slow in progress, is coming to demonstrate in a broad and noble sense the truth of Louis XIV's triumphant cry, "The Pyrenees no longer exist"—surely offers more interest and instruction than the most accurate recital of political and military complications. This movement, however, still awaits an impartial recorder.

WILLIAM R. SHEPHERD.

*The Cambridge Modern History.* Edited by A. W. WARD, G. W. PROTHERO and STANLEY LEATHES. Volume V: *The Age of Louis XIV.* Volume X: *The Restoration.* New York, the Macmillan Company, 1907, 1908.—xxxii, 971; xxviii, 936 pp.

*The Cambridge Modern History* is both a notable achievement and a continual disappointment. In bulk it will be surpassed by but three or four of the great works of reference in the English language. Its list of contributors commands instant respect. It has already become an "authority." Yet the book seems to be written for no one in particular. The scholar misses that constant contact with the sources by way of foot-notes, which makes even a mediocre narrative worth his reading. The general reader will not find in its long and not always luminous text a royal road to history. Perhaps most appreciative, under the circumstances, will be the man who buys but never reads, the purchaser of "sets," to whose well-stocked library the great modern history will be an indispensable addition. He will have that sense of intellectual well-being which comes from the presence of authority. He can feel safe within the reach of knowledge—whatever that may be—as the mediæval monk must have felt with his Aristotle or Aquinas. But it is to be hoped that the history was not written for him.

It is now too late, however, to quarrel with the plan of the book; we must confine ourselves to the criticism of its execution. Even this must be very incomplete. There are no less than twenty-four chapters in each volume, mostly by different hands. To criticise in detail would be to prepare a catalogue at once imperfect and misleading.

The reviewer, therefore, himself facing the limitations of space, cannot but be in a sympathetic frame of mind as he turns over these pages and realizes that, in spite of the great bulk of the work, there has not been room enough to tell the story. The limits allowed, generous as they seem, are frequently so inadequate as to lead to a merciless crowding of fact upon fact, a bewildering display of phenomena too slightly explained. It may be that this is the most significant thing in the book. It shows better than has ever been done before the immense range of the subject which the editors have attempted to cover. Vast as their enterprise is, it fails to offer more than a mere introduction to a thousand different things, each worthy of exhaustive treatment. There are few sections where one does not feel the sense of incompleteness. Sometimes this is accentuated by a style which touches things too lightly—that most irritating imitation of the Gibbonesque, saying things by inference, as though the writer feared that the reader might take offence if he ventured to tell him anything simply and directly. At other times the facts are too obviously thrown at the reader's head. The only way to compress the infinite variety of modern society into any set of books is to eliminate the unimportant and to tell the rest in a plain straightforward way. There are of course sections in these two volumes which do not sin against either of these two principles. But the erudite chapters cause the general reader needless suffering and are not always satisfactory to the scholar. Yet, as I have said, they tend to emphasize what is after all of almost as much importance as the facts which they contain, the well-nigh limitless scope of modern history when viewed not merely as political but as social evolution.

It is interesting to see how both editors and contributors have attempted to meet this wider view. The editorial idea comes out most clearly in the plan of the tenth volume. After twenty chapters of political history, a chapter on German and one on English literature, the economic achievements of the period are hurriedly covered in a twenty-third chapter, followed by a last short one upon the British economists. Such an incidental appendix to the main narrative is not the place for the development of the industrial revolution—the central fact of more than half of the story that precedes it. The English historians are slowly broadening out, but the process has hardly more than begun. How much more skilfully than his collaborators a historian like Émile Bourgeois, trained in the wider survey, has treated the France of this period. He rightly feels that his narrative fails unless it reaches the roots of things. There are relatively few figures on his

canvas, yet it carries the conviction of adequacy, because of the justness of his perspective. There is no blur of courtly faces in the foreground, as in the chapter preceding. A comparison of these two chapters shows that democracy by no means robs history of its charm.

Among so many articles by the most competent men obtainable, it is difficult to choose for comment. But most valuable, perhaps, in the fifth volume is the full treatment of central and eastern Europe. Professor Bury, who has turned from his studies in Byzantine history not toward western Europe but up the Dnieper to Kief and Muscovy, introduces the history of Russia. R. Nisbet Bain, certainly the best qualified English scholar, describes the age of Peter the Great. Dr. A. W. Ward himself takes up the settlement after Utrecht, and the development of Prussia. There is little new in the treatment of France; compared with the volume on Louis XIV just published by Lavisé, it is but a hurried sketch. England and the Stuarts receive slightly more detailed treatment. One cannot altogether pass judgment upon the general makeup of this volume, however, until the appearance of the next in the series, which is announced as *The Eighteenth Century*. The important chapters on science which this volume contains will then find their logical development in the changed intellectual atmosphere. The age of Louis XIV to its very close was linked to the seventeenth century. Seignobos has some justification in dating modern times from his death.

In the tenth volume the place of honor is given to diplomatic history, which has been placed in the competent hands of W. Alison Phillips, to whom also falls the treatment of Greece and Egypt. The chapter on the "Ideologues" by Lady Blennerhasset lacks breadth of view. She also contributes the chapter on the papacy. Professor Pollard's "Germanic Confederation" is slightly disappointing—coming from him. The Spanish colonies and South America receive somewhat full notice. The history of Russia and Poland is compactly told by Professor Askenazy. Apart from the sections already referred to, we have to commend the attempt to include the history of national literatures in the general survey. But the chapters in which this is done bring out rather forcibly the defects of the book. Apart from their hurried pace they suffer from a lack of coördination with the social forces which the national writers interpreted. To place the chapter containing Shelley and Byron before that which described the England against which they rebelled is to rob their short biographies of half their meaning. Some day we may have a book in which these things will be adequately correlated.

J. T. SHOTWELL.



*Enterprise and the Productive Process.* By FREDERICK BARNARD HAWLEY. New York, G. P. Putnam's Sons, 1907.—xiv, 467 pp.

*Production: A Study in Economics.* By P. H. CASTBERG. London, Swan Sonnenschein and Company, 1907.—xvi, 382 pp.

It seems to be generally admitted by economic writers of all schools that the economist no longer enjoys among the intelligent laity the prestige that was his in the days of the orthodox political economy. For this unfortunate state of affairs Mr. Hawley finds an explanation in the lack of an authoritative definition of economics and in the general failure of economists to accord due importance to the economic function of enterprise. In order to find a basis for an authoritative definition of economics the author makes an incursion into the field of methodology, and discovers principles of logic which, he believes, must revolutionize the procedure of economists in establishing definitions. The formal criticism of this part of his work may be left to the professional logician; economists will be chiefly interested in its fruits, of which Mr. Hawley gives a very fair assortment.

Mr. Hawley defines economics as

the study of the interrelations of that group of egoistic human activities which are incited by the expectation of definite personal shares, prearranged in supposed conformity to functions performed, of the purchasing power resulting from the joint activity of two or more individuals [page 69].

Economists have long recognized that the *entrepreneur* form of economic organization, as the prevailing type at the present time, deserves especial attention. It has remained for Mr. Hawley to define economics in such a way as to exclude every other possible system of wealth production and distribution. The economics of a Robinson Crusoe, as well as the economics of a communistic state or of a primitive village community, falls entirely outside of the field of study of the economist. A rigorous interpretation of the definition would also exclude from economics the wealth-creating activities of the self-employing artisan or of the independent farmer. Mr. Hawley, however, by what appears to be a mere quibble, manages to force such activities under his definition. As a seller, such an independent laborer may be supposed to engage in joint activity with the buyer, for the creation of a product to be shared in prearranged proportions (pages 65-67). A little consideration of the possible meaning of "prearrangement" in

such a case as this inevitably arouses suspicion as to the validity of Mr. Hawley's definition.

Confidence in the definition is not increased by Mr. Hawley's classification of egoistic activities under the heads: social, individual and economic (page 75 *et passim*). This classification, he asserts, is universally recognized; it is a product of the "unconscious cerebration" of the human race. It will doubtless surprise him greatly to find that his book has fallen into the hands of a reviewer who has never heard of such a classification, and who challenges the author to cite one instance of economic activity that is neither individual nor social. If it were indeed true, as Mr. Hawley asserts, that the definition of economics is the major premise in every economic syllogism, there would be no occasion for giving further attention to this book. Since, however, very little vital truth has ever been discovered through attempts at the definition of the several sciences, we may properly proceed to examine in detail some of the other results of Mr. Hawley's study.

The standpoint from which our author approaches the problem of economics is, of course, that of the business enterpriser. Enterprise, in his opinion, is the one true productive factor, while labor, capital and land are merely means of production (page 112). The exact function of the enterpriser, in Mr. Hawley's theory, is not, however, clearly established. We are told that enterprise includes all volitional activity (page 114); economic enterprise includes all volitional activity in the economic field. This would lead one to suppose that such acts as the saving of capital and the appropriation of land are manifestations of enterprise; and this, indeed, is Mr. Hawley's view. But such acts are excluded from economics on the ground that they are individualistic. Again, one would suppose that labor, at any rate the labor of coördinating land, labor and capital in production, is enterprise. This, however, Mr. Hawley stoutly denies.

A second definition of enterprise identifies it with ownership. As the legal owner of the product created by land, labor and capital, a man becomes an economic enterpriser. As the owner of land, of capital or of labor power, a man becomes an enterpriser, indeed, but not an economic one, as such ownership is individualistic (page 64). The relation of this concept to the one first given is not worked out by the author, but we may suppose that he regards ownership as a continued exercise of volition. This, of course, is psychologically untenable; it is very easy to cite cases in which no effort of will is required to remain an owner of property, while a strong effort of will may be required to divest oneself of it.

Yet a third conception of enterprise is given : the subjecting of oneself to uncertainty (page 115 *et passim*). The relation of this concept to the preceding is not at all clear. The exercise of volitional activity and the ownership of property do indeed subject one to uncertainty. But so also do non-ownership and inactivity. Living and breathing are enterprise, if we accept this view. Accordingly, when Mr. Hawley, in an attempt to resist socialistic attacks upon profits, declares that enterprise is the worst-paid function of all (page 127), the socialist can but acquiesce, without becoming one whit less a socialist. For life in general is undoubtedly underpaid.

The income of the economic enterpriser is profit. By what right does the enterpriser, who does not labor, who owns no capital nor land, receive a profit? A common view is that this income is a residuum, which falls to the enterpriser by virtue of the fact that competition fails to give to the several productive factors the entire value-product imputable to them. This view Mr. Hawley rejects. Profit, he maintains, is the reward for the assumption of responsibility and risk. Readers familiar with the economic controversies of the last decade will remember that this view was severely criticised by Dr. A. H. Willett in his *Economic Theory of Risk and Insurance*, on the ground that the enterpriser as such, having nothing to lose, can not be said to assume risk at all. If losses occur, they must be borne by the capitalist. Accordingly the reward for risk-taking must appear in the form of interest. Mr. Hawley appears to have noted this criticism (page 110), but he can not be said to have appreciated its full force.

Mr. Hawley is not entirely consistent in his use of the term profit. Ordinarily the word is used to designate the surplus left in the hands of the enterpriser after all costs have been met. In some cases it is used to designate the net gains above losses of enterprisers as a class (pages 106, 107). This would exclude from the category the gains of the lucky enterprisers in so far as these are counterbalanced by the losses of the unlucky ones. On pages 182 and 183 the increase in value of the items of a stock in trade is described as profit. In this case no deduction is made of the cost of carrying the stock.

The author's treatment of capital and of capital goods contains suggestions of value to the economic theorist, although it is far from being logically faultless. Capital is command over purchasing power in general (page 183). This appears to mean that capital is the value-aspect of saleable goods—a view which may now be called almost orthodox. Capital may be invested either in "capital goods" or in "opportunity." The term "capital goods" is limited to the class of

objects described by Professor Clark as "passive capital goods," *i. e.*, salable commodities and materials in process of manufacture. "Fixed capital" is assimilated to land, monopoly privilege, *etc.*, under the head of "opportunity." The reason for placing fixed capital in this category is that objects composing it yield an income of the nature of rent, not of interest. Rent is defined as the price of the use of a specific thing, interest as the price of the use of general purchasing power (page 184). A little closer analysis would have revealed to Mr. Hawley the fact that the income arising from the increase in value of a stock of passive capital goods does not fall under his definition of interest, but is analogous to the income which he denominates rent. With this correction Mr. Hawley's theory of the relations of rent and interest becomes practically identical with that of Professor Fetter. The only distinction between the two classes of capital goods is, after all, that one is not actually the subject of renting contracts while the other may be—a distinction of practical but not of theoretical importance. The distinction drawn by Mr. Hawley (pages 212-214), that the interest on capital embodied in "opportunity" is not a part of cost of production, while the interest on capital embodied in passive capital goods is a part of cost, will not bear close examination.

One of the results of Mr. Hawley's distinction between capital goods and opportunity is a very questionable theory of crises (pages 223 *et seq.*). For some obscure reason he concludes that the accumulation of savings first manifests itself in an accumulation of mercantile stocks and of the materials of production. Such a heaping-up of finished and partly finished commodities eventually produces declining prices and reduced profits of enterprise. In the end the accumulation of capital is checked, consumption carries away the surplus stocks, prices rise to a profitable level, and prosperity returns. Thus it appears that the accumulation of capital, instead of giving an advantage to the enterpriser, must bring about severe reductions in profits. If Mr. Hawley had recognized the fact that savings assume the form of fixed capital as readily as that of circulating capital, we should probably have been spared another theory of crises.

As specimens of the practical bearings of his theory the author adds three chapters on "Trade Unions and Strikes," "The Trusts" and "Socialism." In the first an elaborate argument is advanced to prove that whatever some laborers may gain by an artificial advance of wages must necessarily be wholly at the expense of other laborers—the wage-fund conclusion supported by new and very bizarre reasoning. In the chapter on "Trusts" reasons are given for preserving the good and

destroying the bad trusts. The chapter on "Socialism" is moderate in tone, but not of a character to carry conviction.

While Mr. Hawley's work does not appear, to the reviewer at least, to have produced theoretical results of a high degree of value, it is none the less worthy of careful study as an honest and resolute attempt to contribute to the solution of problems that are admittedly among the most important in economics. Mr. Castberg's book, on the other hand, presents to the reader only one problem: why such a book should have been written at all. It deals for the most part with the perfectly obvious, and it does this in an exceptionally unilluminating way. The author's point of view is similar to that of the late Mercantilists or early Physiocrats. According to him, the "true producers" are the owners of land and of other sources of production, chiefly natural. Laborers, bankers, merchants, transportation companies, are "assistants" of the producers. The rate of interest is treated as a function of the supply of gold. The persons employed by industry dependent on protection are treated as a net addition to the population. The book contains a tolerably accurate description of the operations of banking, exchange, *etc.*, but every student of economics has access to clearer and more adequate treatises on these subjects.

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*Money and Credit Instruments in their Relation to General Prices.* By E. W. KEMMERER. Cornell Studies in History and Political Science. Volume I. New York, Henry Holt and Company, 1907.—vii, xi, 160 pp.

*Some Chapters on Money.* By F. M. TAYLOR. Ann Arbor, George Wahr, 1906.—316 pp.

Professor Kemmerer has performed two distinct services. In the first place, he has given the so-called quantity theory such a clear and explicit statement that critics cannot be forgiven if they assume that it ignores the influence of credit upon prices; and, in the second place, for the benefit of those who can be convinced only by facts, he has most patiently and intelligently worked out an inductive corroboration of the theory.

The author divides his essay into two "books," of which the first is an elementary discussion of the theory of money and credit, and the second a statistical inquiry into price fluctuations from 1879 to 1904. Book I, which contains eighty-eight pages, might quite well have been

condensed by the elimination of controversial matter. Since his essay appeals only to advanced students, a brief statement of his theory of money and credit would have been sufficient to make intelligible the equation he seeks to establish inductively in Book II. This is the equation :

$$P_s = \frac{M R + C R_c}{N E + N_c E_c}$$

$P_s$  stands for the average price of all commodities sold for money or credit ;  $M$ , for money ;  $R$ , for the number of times money is turned over ;  $C$ , for credit instruments ;  $R_c$ , for the number of times  $C$  turns over ;  $N$ , for the number of commodities exchanged for money ;  $E$ , for the number of times they are exchanged ;  $N_c$ , for the number of commodities exchanged for credit ; and  $E_c$ , for the number of times they are exchanged. In plain English, we have here the statement that price is the quotient obtained by dividing the volume of money and credit by the volume of exchanges.

In Book II Professor Kemmerer endeavors to estimate the relative changes which took place during the period under examination in the various factors which determine price. The amount of money in circulation he takes to be the mean of the circulation at the beginning and at the end of each year, bank reserves being excluded. Basing his calculations on the investigation made by Kinley under the auspices of the comptroller of the currency, he accepts 75 per cent as the proportion of business transactions performed by means of credit instruments, and assumes that the total of checks deposited in banks represents a rough approximation to the check circulation. He finds that the annual rate of monetary turn-over was 47, *i. e.*, that each dollar was exchanged on the average 47 times each year. Thus he gets approximate estimates of  $M R$  and  $C R_c$ . On account of the influence which confidence has upon the use of credit, he makes an attempt to secure figures which will show the fluctuations of business confidence. For this purpose he has recourse to the market value of sales on the New York stock exchange, the prices of twenty-eight leading stocks, the rate of interest on call loans, and the number of commercial failures. Combining these factors, he gets an index number which gives a rough idea of changes in business confidence, the reciprocal of which shows business distrust. He arrives at  $N E$  by the construction of an index number based on changes in population, ocean tonnage, exports and imports, post-office revenues, railroad tonnage and earnings, the consumption of pig iron, coal, wheat, corn,

cotton, wool and wines and liquors, and the market values of sales on the New York stock exchange. His index number of prices is made up from several standard tables weighted 3 per cent for wages, 8 per cent for the price of stocks, and 89 per cent for wholesale commodities.

Having arrived at a numerical statement for all of the factors of the price equation, Professor Kemmerer proceeds to test the assumptions underlying his theory of money and prices. Having assumed that in ordinary times, *i. e.*, "under static conditions of business confidence," there must be a certain correspondence between bank reserves, money supply and check circulation, he constructs a chart showing fluctuations in money circulation and bank reserves. The result is gratifying, for the two lines show a proper degree of correspondence, the only period of marked divergence being during the period after the panic of 1893, when reserves increased because of the decline in business confidence. The author fails to note that after 1897 the bank reserves increased at a slightly faster pace than the money circulation; but this fact is quite in harmony with his theory, for it indicates that as business confidence grew a larger proportion of exchanges was mediated by credit. A second chart pictures a remarkably close correspondence between business distrust and the ratio of bank reserves to check circulation. This chart certainly seems to justify the author's claim that it "substantiates the contention of Book I, to the effect that the ratio of check circulation to bank reserves is a function of business confidence." Thus we get a statistical confirmation of a fact of common observation, to wit, that in good and confident times bank clearings are relatively large and reserves relatively small.

Finally, Professor Kemmerer gives us a chart in which the course of general prices is compared with the course of the "relative circulation." The reviewer agrees with the author that "one could hardly expect a more closely parallel movement of two complex economic factors functioning together than that shown by this chart"; but he regrets that the process of which the line indicating "relative circulation" is the product is not explained in greater detail. This line undoubtedly represents the second member of the author's price equation; but it is by no means obvious how it was obtained by the combination of his several index figures. It is also to be regretted that the line of "general prices" halts at 1901. If that line had been extended to 1904, its upward movement would doubtless have more nearly corresponded than it does with the increase of relative circulation after 1897.

Professor Kemmerer has done a good piece of work. His statistics may be inadequate and his index figures hypothetical, but he has given

concrete expression to the real quantity theory, or demand and supply theory, of money, and has indicated very clearly the only method whereby its opponents can discredit it by an appeal to facts.

Professor Taylor is an advocate of what may be called the up-to-date quantity theory of money. His book, which is "printed for the use of students in the University of Michigan," states the argument with lucidity and is often happy and forceful in its illustrations. A very commendable feature is the long list of problems at the end of each chapter. These indicate very clearly that Professor Taylor knows how to make his students do some thinking on their own account.

In the development of his subject Professor Taylor adopts a unique method. After the manner of a geometrician he lays down principles or theorems and proceeds with their demonstration, drawing numerous corollaries. This method is of doubtful value, except possibly to advanced students with a taste for mathematics. To beginners the subject of money is made clear by exposition rather than by demonstration. Very few of Professor Taylor's theorems will be fully comprehended by the student until he has mastered the whole subject. To beginners, therefore, unless they have the aid of a competent teacher, the book is likely to prove confusing. In the author's promised book on money and banking, it is to be hoped that he will expound rather than demonstrate.

Professor Taylor is excessively fond of classifications and subdivisions. He begins with a sound definition of money, namely, that it is something generally and habitually employed as a medium of exchange, and then announces that throughout his book he will use the word in its popular sense, making it include all forms of currency, although recognizing the fact that all of these except one are credit or representative money. Then he plunges us into the following classification of moneys: (a) principal or standard; (b) subordinate or inferior; (c) quasi-standard; (d) circulation moneys. The two most important functions of standard money are "systemic," *i. e.*, they are concerned with keeping the whole monetary system in good working order. These functions are (1) maintaining inferior moneys at par and (2) maintaining standard money in its place. Keeping standard money in its place means, we find, keeping it from being exported by the excessive issue of inferior moneys. From one point of view there are two kinds of standard moneys, the proximate or immediate standard and the ultimate standard. Sometimes standard money is referred to as money of ultimate redemption, sometimes as real money, and often as principal money. These terms generally represent distinctions worth



noting; but their employment frequently produces sentences which must greatly disturb a reader not thoroughly familiar with the sense in which they are used. For example, we read :

Another characteristic of standard money, which seems distinguishable from that already brought out, is this, that it is the only money which *embodies* the ultimate standard, if any one does this, or it is the only money which is kept *in immediate connection* with the ultimate standard, if that standard is quite outside the moneys themselves, not being embodied in any of them. Standard money *embodies* the ultimate standard in a system such as ours, wherein it is a full-weight metallic money, having not only the same *money* value as the standard, but also the same *bullion* value [page 53].

As a further result of the author's passion for subdivision, we find moneys divided into hoards and effective stock. The effective stock is divided into circulation proper and reserves. There are four subdivisions of the circulation proper and six of the reserves, as follows : (1) required reserves of banks ; (2) ultimate banking reserve ; (3) surplus reserve ; (4) bank-note reserve ; (5) subsidiary coin reserve ; (6) ultimate gold reserve in the United States Treasury. The last three of these are called "systemic reserves," their purpose being to maintain the monetary system. Granting that the author is correct in his principles of classification and subdivision, it is to be feared, nevertheless, that his bias in favor of such analysis will make his book difficult reading for all but his own students.

In the chapter on the value of money Professor Taylor is not always consistent with his own line of reasoning. Yielding again to his passion for classification, he declares that changes in the value of money may be either apparent or real, the former being due to causes connected with goods, the latter to causes connected with money. He then argues that changes in the price-level due to causes connected with goods, such as reduction of costs, cannot have any hurtful effect. He fails to note, however, that lowered costs will lead to a lower price-level only when more goods are produced and sold, the supply of money not having been increased ; and that under such circumstances the prices of commodities other than those whose costs have been lowered will decline. On page 187 he says :

Not a few great inventions affect the cost of many different products. Steam power in factories, steam transportation, cheap processes for making steel, and so on, all of these influence many industries. It is therefore quite natural to expect, from such inventions, changes of value so great,

and in so many articles, that the average of prices will be lowered. Such a fall in the average of prices will of course be an apparent rise in money. But, as in the preceding case, this apparent rise in money will be only a relative, not an absolute, change. The cause of the change is not in money but in goods. We value money no more, but goods less.

Surely prices would fall, under the circumstances here assumed, because of an increased demand for money, for more goods would be offered in exchange for money. Money would possess a higher value simply because the demand for it had increased, and no good reason appears for saying that such an increase in money would be apparent and not real.

Professor Taylor also declares that changes in the value of money due to fluctuations in business confidence are relative rather than absolute, for the causes are outside of money. According to his use of the terms relative and absolute, no change in the value of money can be real or absolute unless it is due to an increase or decrease in the supply of money. He does not clearly analyze the demand for money, and he fails to recognize the fact that the value of money is dependent quite as much upon demand as upon supply. In this respect he appears to be inconsistent, not fully perceiving the significance of a theorem which he correctly expounds on page 212, namely: "The value of money in any country or group of countries having the same standard, tends to vary directly as the need for it, *i. e.*, as the money work to be done." Perhaps the confusion on this point grows out of the author's tendency to use the word value in the subjective sense.

Professor Taylor is not altogether clear in his chapter treating of the international movements of gold. On page 117 he implies that, "the withdrawal of European capital from the United States after 1890 played a very considerable part in explaining the large net export of gold which characterized those years." Yet on page 136 he correctly says that the coinage of silver dollars and the use of treasury notes between 1870 and 1893 must in itself have tended to cause an outflow of gold. Gold exports, by the way, the author classifies into industrial and systemic, and the latter he divides into physiological and pathological.

In spite of its many excellent features, Professor Taylor's book cannot be highly recommended for the use of college students because an undue amount of space is devoted to unimportant theoretical considerations. References are here and there made to the monetary experiences of different countries, but these are not numerous enough to

satisfy the experienced teacher, and unfortunately some of the statements of fact are inaccurate. For example, the author's statement, on page 191, that Indian prices before 1873 rose and fell with the fluctuations of the gold price of silver, is entirely incorrect. Statistical inquiry has shown that Indian prices advanced very little during the period from 1873 to 1893, when the gold price of silver was cut in two. Again, we should be glad to have the author's authority for the statement, on page 192, that during our Civil War "every seller of goods hastened to change his prices so as to keep pace with the changes" in the greenback price of gold.

This book possesses the great merit of originality both in thought and in method. Furthermore, on many of its pages the style is easy and lucid. Its defects are superficial, being mainly matters of arrangement, classification and definition.

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*Wage Earners' Budgets.* By LOUISE BOLARD MORE. With a Preface by FRANKLIN H. GIDDINGS. Greenwich House Series of Social Studies, Number 1. New York, Henry Holt and Company, 1907.—280 pp.

The peculiar value of this book, in comparison with other studies of budgets and cost of living, is the intensive and personal character of the investigation and its restriction to a definite area in a great city. Only 200 New York families, within an area of perhaps one square mile, are studied; whereas 25,440 families throughout the United States were included in the Department of Labor investigation, 11,560 families at York, England, in Rowntree's *Poverty*, and the entire population of London in Charles Booth's *Life and Labor of the People*.

Naturally we look first to the chapter, "Comparison with Other Investigations," and are surprised to find the statement that the averages and percentages of the Department of Labor investigation, "drawn from a very large number of cases studied in a very general way, correspond very closely to the result of a smaller number of cases very carefully and intimately observed" (page 257).

This statement, while true in general, is misleading in at least one important particular, that of rent. It involves one of the many fallacies of averages. The comparative table on page 262 shows that rent in New York is 19.4 per cent of the expenditures, while in the United States it is 18.12 per cent. The correspondence is indeed close and

should be contrasted with the low percentage of 12 in Engel's German budgets (page 247). But the same table (page 262) classifies families by amount of income; and here it appears that the New York families having the smaller incomes pay 30.5 and 25.9 per cent for rent, while the United States families having similar incomes pay only 18.02 to 18.57 per cent for rent. In other words, the New York average of 19.4 per cent is made up of classified averages ranging from 30.5 down to 16.2 per cent, while the United States average of 18.02 per cent is made up of classified averages ranging only from 18.69 to 16.59 per cent. The important fact here brought out is that in New York the poorer families pay one-fourth or more of their income for rent, while the better circumstanced families pay but little more than one-sixth; whereas in the United States at large the poorer families pay about the same proportion as the better circumstanced families. The average for the United States is obtained from families living in small towns and in the country as well as from families living in cities, and the average is therefore entirely misleading when it comes to making comparisons for different classes living in the same economic environment. The particular value of Mrs. More's investigation is its limitation to a single environment, and it is unfortunate that she has not used this advantage to point out the statistical defectiveness of the other investigation. I have always wondered how it was that investigators in Europe and America could place rent so low as 12 to 18 per cent of expenditures, since I have never found a workingman or any person familiar with urban conditions who placed it at less than one-fourth. Mrs. More says that wage earners "plan to keep the [monthly] rent equal to the weekly income, or about one-fourth of the total income. This is an unformulated economic ideal with them. They move to better rooms as the income increases" (page 137). This statement coincides with my own observations. It is worth a great deal to have this fact established, together with the limits within which it is true, since the uncritical use of averages has in the past caused it to be overlooked.

Closely connected with the author's failure to point out this most significant contribution to exact knowledge is the fact that she gives no cross classification comparing the size of the incomes with the source of the incomes (husband, wife, children, boarders, *etc.*). She has given us four interesting tables of cross classification, comparing the size of the income with the size of the family, the size of the income with the nativity, the nativity with the size of the family, and the nativity with the source of the income. But these do not lead us directly to the vital

questions with which she concludes her book, namely, what is a fair wage, and what is the true meaning of standard of living. She states that "a fair living wage" in New York City should be *at least* a steady income of \$14.00 a week, and that to provide adequately for the future it should be \$16.00 or \$17.00 a week (pages 269, 270). But it does not appear whether this should be the family earnings or the husband's earnings. In order to get at these questions we need to know, for example, the effect of the wife's and children's earnings on the "ambition and sense of responsibility" of the husband. Mrs. More says :

As soon as the children grow older and require less of her care at home, the mother takes in sewing and goes out washing, secures a janitor's place, cleans office, and does whatever she can to increase the weekly income. She feels this to be her duty, and often it is necessary, but frequently it has a disastrous effect on the ambition of the husband. As soon as he sees that the wife can help support the family, his interest and sense of responsibility are likely to lessen, and he works irregularly or spends more on himself [pages 83, 84].

This observation should be tested by a cross classification according to source and size of income. Such a classification would then lead toward an analysis of what may be called the two elements in the standard of living: the *physical* standard, consisting of food, clothing, furniture, shelter, *etc.*, and the *moral* standard, consisting in part of what Mrs. More calls "the attitude toward life," but including amusements, drink, sense of responsibility, and especially the attitude toward education of the children. If a detailed inquisition into private affairs, such as this investigation displays, is justified, it must be on the ground that it helps to answer some practical questions. One question is definitely answered, namely, that raised by the charity organization societies with reference to the minimum income necessary for physical efficiency. This is done through the admirable comparison of twenty "dependent" families and twenty-three "independent" families, classified by size of incomes under \$600.00. This indicates that families with incomes below \$600.00 suffer "moral and physical deterioration, and some of them are in a state of disintegration" (pages 117-124). But other practical questions relating to those families above the charity line turn mainly upon the income earned by the husband and father. If the only ambition of the average parents is to have their children go to work at fourteen (page 87), then it follows that they are content to rest on a level of a mere physical standard, while the prospect for a

permanent elevation of the moral standard is unfavorable. The wife and children go to work merely to secure more expensive food, clothing, shelter and material comfort. If this is universally the attitude toward life, several extremely practical questions are suggested. Would a fair wage for the husband be of any permanent value to the family or to society? Is there a fundamental weakness in our system of education? What can education do towards raising the moral standard of living? Should the age of compulsory schooling be raised to sixteen, and, if so, what should be the character of the added schooling? These and other practical questions require a comparison of the source and size of income, combined with the other cross classifications already worked out by Mrs. More.

An important side of this problem is the question of thrift. Mrs. More states (page 110) that "thrift seems to be most marked in nations in which the preponderance of income is from the husband," and she cites the Norwegians. It seems to me that she has made too much of inadequate data as regards nationality. For the six nationalities, French, Scandinavian, Swiss, Austrian, Scotch and Cuban, she has altogether but thirteen families, but for each of the Italian, English, German and Irish nationalities she has from 15 to 35 families, and for the Americans 105 families. The question of thrift should be handled not merely by nationalities, but mainly by source and size of income. It seems also that the word "thrift" is used in a double sense. It is contrasted indiscriminately with wasteful management and with saving. Wasteful management is a matter of education and training. Saving, also, has a double meaning. In some places it means present sacrifice of the moral and physical standard solely for the sake of a future improved *physical* standard. In others it means sacrifice of the physical standard in order to educate the children and generally to raise the *moral* standard. One of the greatest lessons to be taught by an intensive study of budgets is the attitude which the public should take on the question of thrift of the working classes. Until this question is cleared up, all efforts toward social reform are handicapped by futile sermons on thrift. Mrs. More gives an answer to one part of the question, namely, that these sermons are ridiculous when addressed to those forty-three families whose incomes are under \$600.00. She ought also to contribute to the question whether for larger incomes thrift is merely a culpable sacrifice of the wife and children for the sake of a mere physical standard, or an ambitious striving for intrinsically better things. If thrift is a part of the attitude toward life, we need to have it clearly distinguished from the question of household management,

and we should distinguish also between the physical and the moral standard. This brings us again to the classification of families according to source and size of income.

I have mentioned these points not so much by way of criticism as by way of suggestion. Mrs. More has advanced the study of budgets beyond any point that has hitherto been reached. It is to her work that I am indebted for the ideas I have expressed as to what might be done in the way of further analysis. My point is that the study of budgets has now reached the stage where we should raise the question of its practical utility. Does it leave us in a state of scientific curiosity or does it contribute to rational plans of practical work in the fields of charity, housing, education, institutions for thrift, trade unionism, etc. In order to do the latter the study of budgets must set out to answer the questions definitely raised by workers in these several fields.

JOHN R. COMMONS.

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*A Living Wage.* By JOHN A. RYAN. Introduction by RICHARD T. ELY. New York, The Macmillan Company, 1906.—346 pp.

This volume was originally submitted as a doctor's dissertation to the faculty of the Catholic University of Washington. It is a thoroughgoing and lucid study of the ethical basis of the living wage; and it aims to demonstrate the laborer's right to such a wage in the present industrial order. The content of the right is described as approximately \$600 a year in the South. That amount is possibly a living wage in moderately sized cities of West, North and East; it certainly is not a living wage in some of our largest cities. The author attempts only to determine the absolute minimum. Economic facts conditioning this right of the laborer are analyzed and described, and a sketch of the obligations correlative to the right is offered.

The features of Dr. Ryan's work which give it its particular character are a thorough review of contemporary and historical writers of the Catholic Church in their discussion of the moral principles underlying wages; a defense of natural rights as these are understood by Catholic writers; a presentation of recent and current views of economists on the main theme; and a definite effort to translate the abstract right defended into its concrete equivalent.

The preponderance of ethical and economic treatment throughout the work are such as to permit but little discussion of the problem as affected by political science. Abstractly, the author holds that the

state has the right and the duty to compel employers to pay a living wage. He maintains that "there are good grounds for believing that an honest and sustained attempt to secure a living wage by legal enactment would meet with a fair measure of success." The obvious difficulties which would be met are not regarded by the author as disheartening. A legal working day of eight hours, exclusion of children under sixteen years from wage contract, state aid to laborers in securing homes and old-age pensions are advocated as indirect means through which "the state could extend the field in which a living wage would prevail." To meet the burdens involved, Dr. Ryan proposes income and inheritance taxes.

Naturally, a discussion of questions so fundamental as those treated in this work offers opportunity for varied dissent; but in whatever measure one agrees or disagrees with one or another of Dr. Ryan's views or measures, one cannot withhold from him the recognition due to a very able and lucid presentation of a most complex problem. The volume is to be warmly welcomed, for it is not only a meritorious piece of work, but also a contribution toward the solution of the essential problem of civilization—the establishment of justice.

CHARLES P. NEILL.

WASHINGTON, D. C.

*Municipal and National Trading.* By Lord AVEBURY.  
London, Macmillan and Company, 1907.—176 pp.

This book is of interest chiefly as an expression of the opinions of its distinguished author. As a brief in opposition to municipal conduct of commercial undertakings it will have some public interest. It presents forcefully some arguments in opposition to municipal trading, but little attempt is made to marshal the facts that are needed to prove the writer's assertions. Lord Avebury maintains that profits from municipal enterprises are confined to such businesses as the manufacture of gas, which have been long established and reduced to regular rules. Even in such cases, however, the municipal accounts are so kept as to make it impossible to determine with any accuracy what the real outcome has been. The profit, if any, has been very small, and results more satisfactory and more remunerative might have been obtained if the works had been leased to private companies. He asserts that on state railways the fares are much higher, while the trains are slower, fewer and less convenient; and he believes that questions of railway management cannot be introduced into the domain of politics without great detriment. He argues that the development of municipal trading has



seriously interfered with private enterprises and with the development of foreign commerce. It has reduced the demand for labor, increased prices and raised taxes. He claims that this has resulted in special injury to the working classes and that the movement, if carried to its logical conclusion, will result in a loss of freedom on the part of the working classes. He holds that municipal trading is responsible for an enormous increase of local expenditure and indebtedness and has greatly increased the burdens of the taxpayers. He seems to look at the question almost entirely from the viewpoint of the large taxpayer, and his arguments will appeal most forcibly to that class. He believes in government by taxpayers exclusively, and, as a logical corollary, he argues against the injustice of depriving the public-service corporations of the right to vote. He says :

The next suggestion which has been made is that companies should have votes in some reasonable proportion to the rates they pay. In our large cities they pay from one-quarter to one-third and in some cases even more of the whole rate. It is monstrously unjust that they should have no votes in the expenditure of funds to which they contribute so largely [page 168].

In America public-service corporations, though without voting rights, have exercised great power in city politics, and in most cases this power has not been so secured or so exercised as to lead to a public demand for its legalization or extension.

ROBERT H. WHITTEN.

NEW YORK CITY.

*Die volkswirtschaftliche Bedeutung der technischen Entwicklung der deutschen Zuckerindustrie.* By THEODORE SCHUCHART. Leipzig, Werner Klinkhardt, 1908.—267 pp.

The German sugar industry finds its origin in the political conditions attending the French revolution. France, having lost her control in the West Indies and consequently her interest in the cane-sugar growth of those islands, turned her attention to the development of the home industry. As early as 1749 the sugar beet had been noted as one of several plants that contained sufficient saccharine qualities to justify hope of a profitable extraction of sugar. No attempt was made, however, to put the manufacture of sugar from beets on a commercial basis until 1808, when, with the encouragement of Napoleon, Charles Achard began experiments in that direction. His efforts were so successful that by 1827-28 France was already producing 2600 tons of beet-sugar. It was this success that influenced the Germans, at a time

when prices of grain and other agricultural products were falling, to undertake the new industry. By 1834-35 there were 21 sugar factories in the Zollverein and 66 in prospect; and in 1836-37 there were 122 factories capable of securing a product of sugar corresponding to 5.55 per cent of the raw material consumed. After this time, says the author, the beet-sugar industry may be considered as the sugar industry of Germany. The interest in the manufacture of cane sugar occupies from this time a position of continually decreasing importance.

At the present time the manufacture of beet sugar includes four principal forms: (1) the raw-sugar factory, which is concerned with the extraction of the raw sugar from the beet; (2) the sugar refinery, which takes the product of the raw-sugar factory and by a process of remelting and purifying prepares it for consumption; (3) the white sugar factory, which manufactures sugar for consumption directly from the beet; (4) the molasses-sugar establishment, which takes the worked-over residues from the other forms of manufacture and by chemical means extracts a part of the sugar still remaining which could not be obtained by a process of crystallization. The author traces the changes in the industry giving rise to these forms of manufacture.

In the development of the industry three leading characteristics appear. One is the enormous increase in the amount of raw material used annually in manufacture. The amount increased from 243,000 tons in 1839-40 to 17,300,000 tons in 1905-06. A second notable feature is the growth of large factories. The average annual manufacture for representative years is as follows:

1839-40 152 factories used an average of 3,196,431 pounds of beets.

1871-72 311 factories used an average of 16,508,608 pounds of beets.

1905-06 376 factories used an average of 92,246,360 pounds of beets.

The same tendency is shown in the increasing amount manufactured daily. Achard had considered that the ideal factory should manufacture 7719 pounds of beets per day. In contrast with this ideal of the early part of the century may be given the actual average manufacture of all factories for a twenty-four hour period in the following years:

1870-71 154,385 pounds

1890-91 591,074 pounds

1880-81 339,867 pounds

1900-01 992,475 pounds

And in 1905-06 the average had risen to 1,151,271 pounds. A third characteristic is the increased amount of sugar obtained from a given quantity of beets. To produce one pound of sugar in 1839-40 requires

17.4 pounds of beets. By 1870-71 the quantity required was reduced to 11.6 pounds. By 1890-91 this quantity was still further reduced to 8.27 pounds; and in 1905-06 only 6.80 pounds were necessary.

This remarkable change was due in large part to the system of taxation in force. From the time that the free trade influence of the English economists had been broken down by the teachings of Frederick List the industry had been favored by legislation. The special incentive to the growth of the industry lay, however, in the relation of the internal tax to the drawback on sugar exported. The tax was levied on the quantity of beets while the drawback was paid according to the amount of sugar. It was found that an increase in the amount of sugar secured from a given quantity of beets yielded a real bounty to the manufacturers. Various attempts were made to readjust the drawback to the changing ratio between the quantity of beets and the amount of sugar, but these failed to do away entirely with the virtual bounty on sugar exported. The resulting growth of the German sugar industry led to the adoption of bounty systems by all the leading sugar-producing countries of Europe. The threatened overproduction of sugar under state encouragement finally led to the calling of the Brussels Convention in 1902 and the abolition of the bounty system.

In tracing the growth of the industry, as indicated by the statistics given, the author discusses in detail the changes taking place in processes of manufacture and their economic effects. He also devotes a chapter to the various problems connected with beet-raising, such as the location of the industry, the influence of agricultural methods, the relation to other crops, stock raising as a means of disposing of waste products, and the problem of soil fertilization. Questions relating to the labor situation are also discussed, such topics as the influence of the wandering laborers from Russia, Poland and Galicia, the employment of women and children, wages, hours of labor, housing and factory conditions receiving special attention. A separate chapter is devoted to the relation of the industry to German commerce.

In conclusion the cost of production, the influence of sugar raising and manufacture upon related industries, the fiscal situation and the comparative position of beet sugar among exports are shown. The net revenue, in millions of marks, increased from 45.2 in 1871-72 to 147.6 in 1905-06. The consumption *per capita* has increased from 5.35 pounds in 1845 to 43.51 pounds in 1905-06. Sugar exports have increased in value from 9.5 million marks in 1872 to 236.6 in 1906, while the imports have decreased from 29.1 million in the former year to practically nothing in the latter. As compared with other

exports, sugar has decreased from 6.8 per cent in 1893 to 3.7 per cent in 1906, while cotton goods have increased from 4.8 per cent to 6.2 per cent and machinery from 2 per cent to 5.4 per cent.

As a whole, the work is thorough, well proportioned and written in a clear, attractive style. The raw-sugar industry and its related problems receive chief attention although the refining industry and the sugar combinations or "cartels" are duly considered. Dr. Schuchart has made a valuable addition to the list of monographs devoted to the history and economic significance of single industrial groups.

PAUL L. VOGT.

WASHINGTON, D. C.

*The Polish Jew. His Social and Economic Value.* By BEATRICE C. BASKERVILLE. New York, The Macmillan Company, 1906.—336 pp.

Before going to Poland, Miss Baskerville had occasionally seen the Polish Jew in the slums of the British cities, and had found him "too loathsome to be likeable" (page 3). Eight years of residence in Poland, where the species can be studied in its native habitat, has fortified her instinctive aversion with more leisurely observations.

The error of the Anglo-Saxon in judging of the Polish Jew is that he imagines "the English or American Jew removed to the Russian Empire and acting there as he acts in London or New York" (page 5). This is why "he reads with horror of Jewish massacres and Jewish persecution." But Miss Baskerville knows better:

Has he had an opportunity of observing the methods of the Polish Jews who, living freely amongst a nation in the proportion of one in seven, have attained an influence in the proportion of seven to one? Has he seen the other side of the medal and counted the cases in which the Semite takes advantage of the Slav and the Jew rules the Russian? Has he seen provincial towns solely inhabited by Jews who live upon the surrounding peasantry? [page 5.]

The Jew is simply "a peril" (page 3). In country estates "Jews act as middlemen between the proprietor and those who purchase his grain, his potatoes, his horses and cows—nay, his milk and butter." Can the Anglo-Saxon imagine, the author asks, that in Warsaw, where "every third man is a Jew, . . . the trade and commerce are in the hands of Jews and . . . Jewish organizations have openly declared their intention of converting the Imperial army to the tenets of socialism?" "And yet these things are facts," the author exclaims, warn-

ing the Anglo-Saxons that "these facts may, though in a modified form, spring up amongst them" (page 6).

Except in those things that can be picked up on the street—to use a familiar phrase—the author's information is obtained at second hand and mostly from anti-Semitic sources. Speaking of "Jewish customs," she relates with *naïveté* that "at Passover he [the Jew] eats *maca*," which "consists of flour and water, without salt, and is eaten for seven days instead of ordinary bread" (pages 303, 304). *Maca*, which is the Polish spelling of the Hebrew *matzoth*, is of course the "unleavened bread" of the Bible; but, apparently, familiarity with the Bible is not among the accomplishments of the author.

Through years of association with the Polish nobility the British lady has adopted the patrician view of the trader as one who "sponges" upon the producer; and the influence of the socialistic vocabulary upon the language of anti-Semitism is reflected in the description of the middleman as one who "exploits" the peasant (page 35). And yet we are told that the anti-Semitic lady "buys her laces and ribbons not at a Polish shop, but in the Jewish quarter, because the prices are lower" (page 66). The author allows that "the poverty of the ghetto . . . exceeds anything the Polish masses experience" (page 17). This, of course, is but natural, since the Jews "produce nothing and, so long as they can keep body and soul together by making small sums among the peasantry, will not touch manual labor, which they detest" (page 37). The author reiterates the same opinion when, speaking of Jewish common laborers, she tells us that "there are huge numbers of Jews in Poland who produce nothing." They "perform the heaviest tasks for the lowest possible wages. Such men become the hewers of wood and bearers of water, the porters, carters, rafters," *etc.* (page 57). Yet, according to the economic conception of the author, they "produce nothing."

Not content with the modest role of a reporter of things seen and heard, the author ventures into a discussion of Zionism, anti-Semitism, socialism and the revolutionary parties. Unfortunately her statements and comments betray utter lack of elementary qualifications for the task. She speaks of "Marx and Engel" (page 187) and even of "Marks" and "Markism" (pages 116, 122). The "theories of Marx and Engel," of which "Social Democrats are used to talk," contemplate, she tells us, the creation of "free units" (page 187). "It seems scarcely pertinent to remind the reader," she writes, "that Marks and Hess . . . had written upon the subject [of Zionism] before" (page 116). That both Karl Marx and Moritz Hess were dead years

before the very name of Zionism came into existence is, of course, known to every one who is at all familiar with the subject.

Lack of discrimination in making use of whatever information she has managed to gather has entangled the author in a maze of contradictions. We are told on one page that "the revival of anti-Semitism, apparent during the past few years even amongst the educated Poles, owes its existence to the Zionist atmosphere which many Jews have helped to create" (page 128). Then, on another page, we learn that Polish anti-Semitism is "the instinctive dislike of the Slav for the Semite, not because he is dangerous, politically or economically, not because he lives on usury, but because he is a Semite . . . because he has a hooked nose and a high color, because he wears a halat and his wife wears a wig" (pages 138, 139). Subsequently we are informed that in "remote spots, untouched by the railway" and by the pernicious activity of the Jewish revolutionary Bund, "the most brotherly feeling still exists between the Jews and the Poles," which is evidenced by the fact that "when the Roman Catholic bishop makes a progress through his diocese" the Jews "run out to meet him, presenting him with bread and salt" (pages 185, 186).

The author's dislike of the Jew finds its logical complement in her antipathy toward the revolutionists, for the Jews have been the leading element in the recent revolution which she has witnessed in Poland. She gives an epic description of the process used by the police to obtain confessions from political prisoners, "which is nothing short of torture" (page 181). Yet she is ready with an argument in justification of this practice: "The methods there used, though contrary to British ideas of justice, save the police a great deal of trouble, because, being morally convinced of the prisoners' guilt, they do all in their power to make them confess it" (page 181). Quite naturally, the Russian "movement for liberty" is sneeringly referred to by the author, in quotation marks (page 73).

The book can be summed up in one sentence, borrowed from the author: "No ordinary intruder can understand what is going on" (page 156).

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NEW YORK CITY.

## BOOK NOTES

Under the title of *The Outlook for the Average Man* (New York, The Macmillan Company, 1907 ; vii, 240 pp.), Dr. Albert Shaw has brought together five lectures delivered before university audiences on various occasions. In one lecture the author considers the nature of the various vocations open to the young man in our new economic conditions ; in another he reviews more closely the specific problems of a business career. Two papers, one on present economic problems and another on Jefferson's doctrines under new tests, relate more directly to the questions of citizenship. A fifth essay sums up the generous legacy which a century of progress has given us. Throughout the volume there runs a note of broad toleration and of firm confidence in the nation's destiny. Dr. Shaw has room in his scheme of things for tendencies which to many readers will doubtless appear antithetical. He holds that we shall always have room for private initiative and competition ; that corporations, under the light of publicity, will have their work to do in the future as in the past ; and that at the same time we shall use the regulative powers of the government, aiming to make our public administration just and efficient, so that if necessary it may be entrusted with enlarged economic functions.

The impressions of American life which Mr. H. G. Wells gathered in a short visit and has published under the title, *The Future in America* (New York and London, Harper and Brothers, 1906 ; 259 pp.), deserve careful consideration. On present American conditions he throws the searchlight of a keen and trained observation ; and such a first view as his is in some respects more illuminating than the cross-lights of more detailed study. Perhaps the most important part of his book is the chapter on American "State-Blindness" (pages 152-166), in which he charges us with a lack of what he calls, with a probably unconscious repetition of Gneist's phrase, "the sense for the state." His forecasts, on the other hand, are unimportant. In spite of the title of the book and a first chapter on "The Prophetic Habit of Mind," he gives us scarcely a hint as to what the American future is to be or ought to be, except that it is to develop along lines less individualistic than those of the present, and that the Americans ought to do what no nation ever has done—determine their destiny by forming "a national purpose." Where Mr. Wells' sociology runs thinnest, it

is because of his ignorance of history. It seems, for example, a trifling blunder that he ascribes the maxim *caveat emptor* to the Romans (page 124); but his erroneous notion that the rule of the Roman law regarding the liability of the vendor for hidden defects of the thing sold was identical with the immoral English rule, and the inference which he probably draws that a similar rule obtains to-day throughout Europe, unquestionably help him to regard swindling as a necessary incident of an individualistic régime.

To Mr. Wells nearly all the evils of American social life are the inevitable outcome of competitive industrialism. He is lenient in his judgment of our predatory rich. "In a game which is bound to bring the losers to despair it is childish to charge the winners with murder. It is the game that is criminal" (page 101). To Professor E. A. Ross, on the other hand, the greatest evils of our social life are not indissolubly connected with the existing social order; and the remedy which he urges in his little book on *Sin and Society: An Analysis of Latter-Day Iniquity* (Boston and New York, Houghton, Mifflin and Company, 1907; xi, 167 pp.) is not socialism, as Mr. Wells understands socialism, but an up-to-date standard of social morals, enforced by a more energetic reaction of social sentiment against "respectable" sinners. Professor Ross does not hesitate to charge with murder those who sacrifice human life to secure larger or quicker returns from industrial enterprises, nor does he hesitate to brand as thieves those who despoil the public by stealth and fraud. The subtitle of his book indicates its chief contention, *vis.*, that in our complex modern life new forms of wrongdoing have appeared which our traditional morality does not recognize and stigmatize as sinful. We are ourselves, as a community, criminally tolerant of those who commit crime "at long range" and who "sin by syndicate." As it is the author's purpose to awaken righteous wrath, he is not to be criticized for writing with heat; but his book would be more effective if it were written more simply, with less obvious straining for novelty of expression.

In this respect Professor Ross might learn much from Jane Addams, whose *Newer Ideals of Peace* (New York, The Macmillan Company, 1907; xviii, 243 pp.) is written with equal warmth of conviction but with greater restraint, with a simplicity of expression and a tranquillity of tone that greatly increase its effectiveness. Miss Addams's plea is also for a higher morality—a morality not of the class nor of the nation but of the world. The idea that runs through the book and gives it its title is that the devotion and self-sacrifice which have hitherto



manifested themselves only in group solidarity or national patriotism are to yield to an aggressive enthusiasm for the welfare of humanity; and that in this way there will come an end of warfare and a reign of peace. Miss Addams finds survivals of "militarism" to-day not only in international politics but also in municipal government and in the reciprocal attitude of laborers and of capitalists. On municipal and industrial problems there are valuable chapters, giving the results of practical first-hand acquaintance with the conditions under discussion. Miss Addams's opinion of the foreign-born, whom she knows so well, is strikingly different from that expressed by Mr. Wells. To him the immigrant seems one of our greatest perils, and the boasted rapidity with which the immigrant Americanizes himself is largely "a protective mimicry." Mr. Wells doubts whether we can assimilate the later flood of immigration from Southeastern Europe, although he is oddly confident that the negroes will not remain a separate people. Miss Addams regards our foreign-born masses as "great reservoirs of human ability and motive power" (page 70), and in the immigrant quarters of our American cities she finds marked manifestations of the world-peace movement (page 235).

Few recent books in the literature of socialism are more worth while than H. G. Wells' latest work, *New Worlds for Old* (New York, The Macmillan Company, 1908; 333 pp.). It is an attempt—for which he apologizes—to answer the question, "What is Socialism?" Since the socialist movements have grown so complex, and so far away from original Marxism, the exposition is most welcome. Mr. Wells takes the utmost pains to make himself clear, even risking conscious repetition and the topical arrangement of a school text-book. His literary skill, to be sure, saves the treatise from any suggestion of the school-room. There is no heated polemic calculated to excite the reader to immediate action, but charm and grace of style are not less potent advocates of his cause. In content the book is very valuable indeed, taking up point by point the things that socialism stands for, stating the objections most commonly urged against them and the answer of the socialist to these objections. Such a method of treatment at once recommends itself to the student, and he will not easily find any other popular exposition of the ideals of current socialism so clear or so complete. To be sure the Fabian gospel fairly exudes from every page of the sections which urge the sweet reasonableness of his ideas. He would even reason with the papacy, in order to point out that the foe of continental clericalism may be robbed of its sting and—as high churchmen have long held—furnish the church with a militant ally.

A third and enlarged edition of *An Inquiry into Socialism* by Thomas Kirkup (New York, Longmans Green and Company, 1907; vi, 216 pp.) will be welcomed by students of current political problems. Kirkup's sympathetic criticism, his breadth of view and his clear method of presentation have won universal recognition. His studies of socialism, once regarded as pioneers in English, have not lost their value. The changes in this volume bring it well up to date.

Robert Hunter's *Socialists at Work*, of which the first volume has appeared (New York, The Macmillan Company, 1908; 374 pp.) undertakes to set forth the present activity of socialists throughout the world and the extent to which the aims of socialism are being realized. Special chapters deal with socialism in Germany, France, Italy, Great Britain and Belgium, and a chapter by Charles Lapworth describes the movement in other countries. There are clever and sympathetic studies of socialist leaders, such as Jaurès, Guesde and Bebel. Based as the book is largely upon personal observation and first-hand material, it presents many facts not elsewhere accessible; and it is admirably written. Its charm is largely due to the personal note; and this will of course put the critic of socialism on his guard. A tendency is observable to claim for socialism achievements which are due, in part at least, to radical support which is not socialistic and to labor movements which repudiate any connection with socialism. A study of the table (page 253) which gives the strength of the socialist vote in various parliaments raises the further query whether certain radical or revolutionary parties which describe themselves as socialistic really belong in this category. It is certainly singular that in capitalistic countries like Great Britain and Germany the socialists should be relatively weak in parliamentary representation, while in non-capitalistic countries like Russia they should be relatively strong. The largest socialist percentage of the parliamentary vote—forty per cent—is found in Finland. The picture of what socialists are actually doing where they are "at work" would be more complete if the author had included some description of the development of municipal socialism in France; and to students, at least, the book would be more satisfactory if it included the official programs of the socialist parties in the various countries of Europe. There are few political documents so illuminating, and the reader would have the satisfaction of knowing that, in viewing modern socialism through them, he was using no man's glasses.

It is but fitting that the *Manifesto of the Communist Party* by Karl Marx and Frederick Engels should appear in translation in a universal language. Accordingly an Esperanto version has been prepared by

Arthur Baker (Chicago, Charles Kerr and Company, 1908 ; 65 pp.). The English text is on opposite pages. If, as Mr. Baker imagines, Esperanto is the tongue "in which our children shall write the Constitution of the World," we may expect that the preamble will contain these words: "La proletarioj havas nenion por malgajni krom siaj katenoj . . . Laboristoj de ĝinj landoj unuigu!"

In a little volume entitled *Anarchism*, Mr. Stevens T. Byington has rendered a distinct service by his translation of Dr. Paul Eltzbacher's anthology of anarchist literature (New York, Benjamin R. Tucker, 1908 ; xii, 309 pp.). This is perhaps the handiest and most satisfactory manual on the teachings of leading anarchists. The writings of Godwin, Proudhon, Stirner, Bakunin, Kropotkin, Tucker and Tolstoi are plundered in turn, the quotations being carefully fitted together into mosaics which rather effectively convey the essence of each man's thought. It is thus a sort of digest, a first-hand source, which has the advantage of not confusing the reader with a single system based upon contradictory theories. The book should be in the hands of all students of modern movements who have not time to investigate for themselves. It is well gotten up.

George Bernard Shaw has republished under the title, *The Sanity of Art* (New York, Benjamin R. Tucker, 1908 ; 113 pp.), an open letter which was published some time ago by Mr. Tucker in *Liberty*, the Anarchist journal. It is a reply to Nordau's *Degeneration* and contains some Shawian philosophy certainly worth preserving. The booklet is neatly gotten up.

The third volume of the monumental work by Professor E. Levasseur, on the history of the working classes in France, which was begun over fifty years ago, has recently been published under the title of *Questions ouvrières et industrielles en France sous la Troisième République* (Paris, Rousseau, 1907 ; 968 pp.). The veteran economist, whose powers of work put many a younger man to shame, takes up, in this portly volume, the whole range of economic and social development in France since 1870. The first third of the book deals with the development of each of the most important industries, with the government monopolies, with the problems of transportation, as well as of domestic and foreign commerce, and with the growth of the population in general and of the industrial population in particular. He next proceeds to sketch the evolution of the economic and socialistic doctrines. There are two chapters on professional education and national wealth, and the remainder of the volume is devoted more particularly to the various phases of the labor question. Thus we find chapters on

labor legislation, on the rate of wages and the cost of subsistence, on strikes, on labor unions, and on the general condition of the workmen both in and out of the workshop. M. Levasseur's views are everywhere moderate. The work will be welcomed as the fitting crown to the half-century's labors of its distinguished author.

That a detailed and careful study of industrial conditions in a French provincial town may be so presented to the world that it reads almost like *A Window in Thrums* and still satisfies the exacting student in search of economics instead of literature, has been proven by Dr. Laurent Dechesne, whose story of how the labor unions came to Verviers, *L'Avenement du régime syndical à Verviers* (Paris, Larose et Tenin; 551 pp.), is a model of local history and statistics. "Verviers is the Bradford of Belgium, as Ghent is its Manchester," says Dechesne. It is a town of about 50,000 inhabitants huddled in the narrow valley of the Vesdre, and is almost entirely given up to the woolen industry. They have had many strikes in Verviers; even the doctors went on strike to maintain their dignity and their fees. But the most important strike, the story of which is given in great detail, was that of the woolen workers. It resulted in a "treaty of peace" which recognized both unions, that of the owners and that of the workers, and compromised in minor matters. Verviers thus became definitely, in the summer of 1906, a city of unions, the first in Belgium to be dominated so completely by them, and it has been sufficiently proud of its unique position to invite imitation and to find in one of its citizens a worthy historian.

Mr. Albert Métin, head of the staff in the French Ministry of Labor, has prepared a small volume of rather unusual interest, *Les Traités ouvriers: Accords internationaux de prevoyances et de travail* (Paris, Armand Colin; xvi, 272 pp.). It is a collection of the treaties and conventions between European powers, which bear upon questions of labor and the treatment of laborers, accompanied by a historical commentary and statistics of foreigners domiciled in France and of Frenchmen living abroad. There are also comparative tables of labor legislation upon the points involved in the various countries. The significant fact is the relative insignificance of the results that have been attained. It is obvious that democracy has not yet captured the citadels of diplomacy, however strong it may be at home. It is almost a century since Robert Owen urged such problems upon the Congress of Vienna, and the historian has only some half-dozen treaties and conferences to record, none of them dating from before 1882. It seems, too, that most of what has been done has come about by a sort of extension of

the idea of tariff-reciprocity, enlarging that question to include the problem of increased cost of production, due to labor legislation, and attempting to strike some equilibrium for markets. Viewed in this light the international labor agreements come almost as a new stage in the history of economic politics. Not all conventions are of this kind however. International congresses, meeting to suppress the use of matches made of white phosphorus, so injurious to those who make them, and to put an end to night work by women, form a striking contrast to the international congresses of eighty years ago, when Metternich was master of ceremonies. Though comparatively little has been attained as yet, one feels, from reading Mr. Métin's admirable survey, that a new era has begun.

The formation of the Committee on Congestion of Population in New York city has emphasized anew the question of speculation in urban sites and of town planning in general. A comprehensive treatment of the problem will be found in Dr. K. von Mangoldt's *Die städtische Bodenfrage: Eine Untersuchung über Thatsachen, Ursachen und Abhilfe* (Göttingen, Vandenhoeck und Ruprecht, 1907; xxx, 745 pp). It is one of the publications of the German Association for Improved Dwellings (*Deutscher Verein für Wohnungsreform*) of which the author is the secretary. Dr. Mangoldt tells us that the natural consequences of leaving the extension of cities entirely to private initiative, checked more or less by the red tape of administrative supervision, as is almost universally the case, have been speculation, overcrowding and their attendant evils. He contends that town planning is a public, not a private function, and he believes that under a public scheme the great aim of decentralization will be accomplished. The book is extremely suggestive, but would have been greatly improved by a rigorous condensation.

It is difficult to see the justification of Dr. Paula Gutzeit's *Die Bodenreform: Eine dogmengeschichtliche kritische Studie* (Leipzig, Duncker und Humblot, 1907; 141 pp.). In spreading before us a condensed account of the theoretical movement for land reform in the various countries, Dr. Gutzeit repeats what is very familiar to all students of the problem. Nor do the chapters which deal with the relation of land reform to socialism and to physiocracy add anything at all to our stock of knowledge. To do nothing but thresh over old straw is not an especially valuable proceeding.

Bolton Hall draws no idyllic picture of the movement "back to the land" in his *Three Acres and Liberty* (New York, The Macmillan Company, 1907; xii, 435 pp.), but he endeavors to afford practical

guidance for those who are seeking to emancipate themselves from the uncertainties and pressure of city life by undertaking agriculture on a small scale. The volume contains advice on where to look for small farms, how to choose them, the most advantageous use of labor and capital, the purchase of implements and practical construction of buildings, and kinds of produce most likely to be profitable. The book is not calculated to produce a rush to the country, but it will be of very real value to those who are contemplating intensive farming.

Mr. Hugo R. Meyer has followed up his attacks on government control of railways in the United States and on municipal ownership in Great Britain by two works, entitled respectively, *The British State Telegraphs* and *Public Ownership and the Telephone in Great Britain* (New York, The Macmillan Company, 1907; 408, 386 pp.). These works, like the earlier ones, are distinguished by a wealth of information which is fresh and often enlightening. Unfortunately, however, the bias of the author is so apparent, and many of his deductions are so patently one-sided, that his arguments in favor of unrestricted *laissez-faire* tend rather to antagonize than to convince his readers. It is precisely in the case of the telegraph and the telephone, that the tide of well-considered public opinion in England has been distinctly setting against the positions which Mr. Meyer undertakes to defend.

Volume 13 of the *Transactions of the Connecticut Academy of Arts and Sciences* (1907) contains a study of an early example of government ownership of the means of transportation, namely, a monograph by Avard L. Bishop, instructor in commercial geography in Yale University, entitled "The State Works of Pennsylvania" (pages 149-297). The history of this experiment has been in a general way familiar, but Dr. Bishop has made good use of the original material, still to be found in Pennsylvania, in showing in all its details the improvidence, the reckless finance and the general corruption which marked this venture in state management of canals and railroads during the fourth and fifth decades of the nineteenth century, and which resulted in dismal failure. "It seems perfectly clear," we are told, "that the public works were used by the political party in power as an invaluable instrument of political corruption, destroying the morals of the citizens, and squandering the resources of the state" (page 244).

Mr. Placid Weizenbach has collected several articles on the recent transfer of the Swiss railways to the government, under the title of *Die Eisenbahnverstaatlichung in der Schweiz* (Berlin, Springer, 1905; 192 pp.). As Mr. Weizenbach is now the head of the federal railway

administration, his discussion will be found to be authoritative. The monograph contains all the important documents in the case.

What has been long lacking in France is a detailed history of each of the six great railways, together with an account of their financial relations to the government. This gap is now being filled by Mr. Henri Lambert, controller of railway accounts in the Ministry of Public Works, in a series entitled *Monographies des grands réseaux des chemins de fer français*. The first number, which has just appeared, is devoted to the Eastern Railway, under the title *Réseau de l'Est* (Paris, Dunod et Pinat, 1907; 196 pp.). The work is admirably done and will be indispensable to all students of French transportation.

An interesting and hitherto almost virgin field of investigation has been well covered by Professor Ulrich Bonnell Phillips in *A History of Transportation in the Eastern Cotton Belt, to 1860* (New York, Columbia University Press, 1908; 405 pp.) Mr. Phillips, whose studies on ante-bellum economic conditions in the South are favorably known, purposely confines his inquiries to South Carolina and Georgia as typical of the South before the war. The investigation is both thorough and interesting, and the relations of transportation to the wider economic interests are never lost sight of. A special chapter is devoted to the state ownership of the Western and Atlantic, although for a study of government railways an examination of the North Carolina experiments might have been more to the point. We trust that the author may be persuaded to extend his interesting researches to other parts of the South as well.

In a well written book, *Sir Rowland Hill: The Story of a Great Reform* (London, T. Fisher Unwin, 1907; xi, 327 pp.), Eleanor C. Smyth, the daughter and last immediate descendant of the great postal reformer, gives an intimate picture of his life during the thrilling days of the fight for penny postage and general postal reform. The first chapter deals with the old postal system and its many evils and abuses. The second is devoted to the work done by some of the earlier reformers—with the main purpose, we fear, of attempting to prove that Hill himself owed little to these pioneers. As is to be expected, the attempt appears somewhat ungenerous to the disinterested reader. The remaining chapters of the book give what is on the whole a satisfactory account of Hill's plan of reform, of the fight against and final overthrow of the old system and of the subsequent career of Hill in connection with the administration of the new system. The book will serve the need of the general reader in that it deals more particularly with Hill's work as a postal reformer, and does not dwell at too great

length on the earlier periods of his life. Those who desire a fuller biography and a more detailed treatment will find Dr. Birkbeck Hill's *Life of Sir Rowland Hill and History of Penny Postage* a more satisfactory work. The chief fault of the book under review is the marked bias which every page reflects; but every reader will forgive a daughter's devotion to a father's memory.

Several years ago Mr. August Kohn was commissioned by the *Charleston News and Courier* to investigate the cotton mills in South Carolina. His reports were printed in 1903. They have now been practically re-written and are published, under the title of *The Cotton Mills of South Carolina*, by the State Department of Agriculture, Commerce and Immigration (Columbia, 1907; 228 pp.). They afford a live and up-to-date picture of actual conditions, with a decided bias, however, which is best reflected in the following quotation from the chapter on "Child Labor": "The cotton mill officials do not like legislation directed against the mill interests. They think they ought to be let alone, and I really think that they would be better off and that conditions would be better if they were let alone" (page 123).

*The Tariff and the Trusts* by Franklin Pierce (The Macmillan Company, 1907; ix, 387 pp.) is a plea for the speedy repeal of the Dingley law. It contains nothing new. The old familiar facts and ideas are stated in the old familiar way. Mr. Pierce wants the great American people to arise in a frenzy of patriotic enthusiasm and smite the trusts with the free-trade ax. In his opinion the tariff is both mother and father of all the trusts and most of the other evils we suffer. All the facts related by Mr. Pierce have long been known to all who have taken the slightest interest in our tariff history. The tale of corruption and extortion could be drawn out indefinitely. Yet the fact must be recognized that the people are not excited about the tariff. When it is revised let us hope that the revision will not be so radical as to invite a return to higher protection at the next election.

It is not often that a pamphlet in favor of protection assumes the form of a survey of European history. But Mr. J. W. Welsford, in his *Strength of Nations: An Argument from History* (London, Longmans, Green and Company, 1907; x, 327 pp.), presents such an essay. In spite of the crispness of his style and a somewhat serene confidence in his ability to discover the real lines of cause and effect in the labyrinth of the past, the new Orosius of the Tariff Reform League will find at least as many students of history who will question his synthesis as economists convinced by his arguments. On the other hand the book does show originality and is decidedly stimulating. It



is well to have old conclusions challenged and to look now and then at the perspective of history from a new angle, even if it distorts the view somewhat. For instance, while we cannot agree that history of the French Revolution—Reign of Terror, Napoleonic empire and all—was determined by Calonne's commercial treaty with England in 1786, it is well to have its possible influence urged upon our attention. We can but regret, however, that the economist has made himself the successor of the theologian in the use of historical data for his polemics.

Professor George Mygatt Fisk has published a very useful handbook on *International Commercial Politics* (New York, The Macmillan Company, 1907; 288 pp.). The eighteen chapters of the book sketch the development of commercial politics through the phases of mercantilism, free trade and protection and give a succinct treatment of the history and analysis of tariff systems, commercial treaties, commercial statistics, navigation politics and trade-promoting institutions. Each chapter is accompanied with a series of "suggestive topics and questions," and an admirable classified bibliography is supplied.

One of the students of Professor Neumann of Tübingen, Dr. Wilhelm Gerloff, has addressed himself to a fiscal problem which is assuming much importance in parts of Switzerland, in a monograph entitled *Die kantonale Besteuerung der Aktiengesellschaften in der Schweiz* (Bern, A. Francke, 1906; 264 pp.). Dr. Gerloff shows how the varying industrial development in the separate cantons has brought about a widely diverse system of corporation taxes. With many of the difficulties, as, for example, those of double taxation, we are quite familiar in the United States. Dr. Gerloff favors a separate tax on corporations, similar to that already levied in the industrial cantons, like Baselstadt, Zurich and St. Gallen. A valuable feature of the work is an appendix containing the legislative provisions of each canton affecting the corporation tax.

Perhaps at no period in the history of economics has so much attention been paid to the subject of crises as in the past few years. The latest contribution to the topic is the two-volume work of Dr. Mentor Bouniatian, *Studien zur Theorie und Geschichte der Wirthschaftskrisen* (Munich, Ernst Reinhardt, 1908; 188, 312 pp.). The first volume is theoretical in character, and the fundamental idea of the author is apparent from the title itself: *Wirthschaftskrisen und Ueberkapitalisation*. Dr. Bouniatian, however, employs the term overcapitalization in a somewhat different sense from that which is usual among American economists. Capitalization with him means the accumulation of capital, *i. e.*, of the pieces or embodiments of capital;

and overcapitalization therefore denotes a construction of factories, machines *etc.* at a rate too rapid for the powers of consumption to dispose of. A crisis is the result of this disproportion between the inherent forces of capital accumulation and those of consumption. The second volume is historical and is entitled *Geschichte der Handelskrisen in England*. Owing to the recent appearance of Tugan-Baranowsky's history of crises in England since 1825, Dr. Bouniatian has laid chief stress on the earlier periods and closes his study with the year 1840. With the exception, however, of the discussion of the monetary disturbances of 1695-96, Dr. Bouniatian has added but little to what is to be found in the familiar English literature of the subject. In his account of the South Sea Scheme he appears to have overlooked Dr. Brisco's recent study of Walpole, which would have cleared up some doubtful points. The proof-reading of the English names leaves much to be desired.

The second volume of Professor Cunningham's *Growth of English Industry and Commerce in Modern Times* has now appeared in a fourth edition in two substantial parts (Cambridge University Press; New York, Putnams; xxviii, 1039 pp.). The fourth edition of the first volume appeared in 1905. In the four years which have elapsed since the preceding edition there has been considerable addition to our store of knowledge through detailed investigation of the various phases of the subject, especially as regards agricultural conditions. Dr. Cunningham has endeavored to incorporate the result of these researches, but has found it necessary to re-write only those sections which deal with the enclosures in the seventeenth and eighteenth centuries and the disappearance of small holdings.

The Macmillan Company has reprinted the second edition of J. K. Ingram's admirable little *History of Political Economy* (New York, 1907; xv, 246 pp.)

Dr. Julius Becker has thrown light on a somewhat neglected period of economic thought by his study of the German *laissez-faire* school, under the title, *Das deutsche Manchestertum: Eine Studie des wirtschaftlichen Individualismus* (Karlsruhe, G. Braunsche Hofdruckerei, 1907; 131 pp.). After an introductory chapter on the origin of *laissez-faire* and the views of the English classical school, Dr. Becker devotes a chapter to Prince-Smith, the chief representative of the German school. We are told that Prince-Smith was born in Great Britain, the son of the governor of British Guiana, and that he received his education in England. Going to Germany as a newspaper reporter, he became teacher of English in the gymnasium of Elbing at the age of twenty-

two, and soon became wholly identified with German activities. Dr. Becker gives a full and interesting account of the movement started by Prince-Smith, which soon spread to the field of social as well as of trade reform, and he describes the forces which brought about its decay and disappearance in the seventies.

The most important changes in the fifth edition of Professor Marshall's *Principles of Economics* (London, Macmillan and Company, 1907; 870 pp.) are the relegation to a series of appendices of the discussions which are not essential to the main drift of his argument, the addition of an entirely new appendix on the incidence of local rates, and the rewriting of the chapter on standards of labor and wages and the chapters on marginal costs and value. Professor Marshall takes great care to make his position clear upon several matters of controversy, notably, his understanding of the terms statics and dynamics, of the terms capital and income and of the "seemingly simple, but really treacherous, phrase 'the whole produce of labour.'" He announces that he has in print part of a volume on *National Industry and Trade* and that he intends to bring out as soon as possible a volume on *Money, Credit and Employment*.

The eighteen essays contributed to the *Festschrift für Adolph Wagner* (Leipzig, C. F. Winter'sche Verlagshandlung, 1905; 343 pp.) fall roughly into discussions on population, the history of economic doctrines, the theory of taxation, socialism and the theory of prices. The two essays on population doubtless owe their origin to the importance given by Professor Wagner to questions of population in his tariff essays, as they appear in his *Agrar- und Industriestaat*. In the paper entitled "Der Streit um Malthus' Lehre," Professor Dietzel devotes the greater part of his argument to an examination of the thesis advanced by Oppenheim and Wolf. In the article on "Sir Mathew Hale und John Bruckner mit einer Geschichte der vormalthusischen Bevölkerungstheorie," Professor Hasbach leads the reader through a laborious discussion to the conclusion: "Der Rückblick auf eins der unerfreulichsten Bücher die je geschrieben worden sind beweist genügend dass wir Hale nicht als Vorläufer des Malthus ansehen können"! The most valuable essays in the collection were contributed by Professor Bresciani of Pavia on "Alcuni appunti sulla distribuzione del reddito e del patrimonio in Prussia," and by Professor Benini of Rome on "I diagrammi a scala logaritmica."

Shortly after the death of Le Play in 1882, his disciple and co-worker, Charles de Ribbe, issued an appreciative sketch of his life, based largely on letters regarding matters in which the two men were

intimately associated. This account, *Le Play d'après sa correspondance*, is now re-issued in a second edition (Paris, Victor Lecoffre, 1906 ; vii, 266 pp.). M. Henri Joly contributes a preface and a few supplementary notes. Le Play's chief interest in his famous family monographs was in deducing from them evidence in support of his social gospel of family solidarity, and it is this side of his career which appears in his letters to M. de Ribbe. The correspondence discloses something of the charm of Le Play's personality, and reveals clearly the strength of his belief in the importance of the family and religion, and the zeal and persistence with which he threw himself into the effort to rally support in their defense.

A reprint has appeared of Lewis H. Morgan's *Ancient Society* (New York, Henry Holt and Company, 1907 ; xvi, 554 pp.), but without change or revision.

The ordinary theory of the origin of interest is that it arose out of the loan of implements or weapons, or in connection with primitive commerce. Dr. Michael Hainisch, in *Die Entstehung des Kapitalsinsens* (Leipzig, Franz Deutike, 1907 ; 112 pp.), seeks to controvert this position. His thesis is that the taking of interest is to be traced back ultimately to the loan of cattle (or, in parts of Asia, of horses or camels). The book is full of interesting facts culled from a great variety of sources and ranging from Ireland to Babylon. It is obvious, however, that in the absence of positive proof, which is almost impossible to adduce, Dr. Hainisch's theory remains nothing but an ingenious conjecture, based on very fragmentary material.

Not only the students of Greek antiquities, but all who are interested in legal history, will welcome the separate reprint, from the *Festschrift* in honor of Ferdinand Regelsberger, of Professor H. F. Hitzig's *Altgriechische Staatsverträge über Rechtshilfe* (Zürich, Institut Orell Füssli, 1907 ; 70 pp.). In this essay Professor Hitzig summarizes and discusses all the material furnished by writers and by inscriptions touching the interstate administration of justice among the ancient Greeks, in so far as this was provided for or regulated by treaties. The author includes treaty provisions governing the administration of criminal as well as of civil justice, and treaties of arbitration as far as these provided for the termination of controversies between one of the contracting states and individual citizens of the other contracting state. To borrow a French phrase, for which neither the English nor the German law has an exact equivalent, Professor Hitzig's subject is the conventional *droit international particulier* of the ancient Greeks. A student of legal history will note with interest that this branch of inter-

national law followed the same lines of evolution which we trace in early municipal law. The earliest treaties dealt only with torts and crimes; provision for the enforcement of contracts came later. The redress provided in the earliest treaties was reprisal by the injured party or by his friends—self-help legalized by the exclusion of counter-reprisal. Provision for suit in the ordinary domestic courts or in special arbitral courts came later. The material is fully up-to-date, including the most recent discoveries, and its treatment displays that competence which comes from a union of philological and juristic training.

At Aljustrel in Portugal was discovered, in 1876, a table of bronze commonly described as the *Lex metalli Vipascensis*. It constitutes part of a law or ordinance of the early Roman Empire for the government of the mining town of Vipasca. In the same locality was unearthed, in May, 1906, another table, containing rules regarding the exploitation of the state mines. This table also appears to contain a part only of a more extensive law. It has already elicited much learned discussion, to which Professor Zocco-Rosa makes a valuable contribution in a pamphlet entitled *La Nuova Tavola d'Aljustrel* (Catania, Istituto di Storia del Diritto Romano, 1907; 16 pp. and insertions). He rejects the theory that the newly discovered law is a "complement" to or modification of the *Lex metalli*. He thinks that it is either a general law governing the exploitation of silver and copper mines throughout the empire or a special law applying the general rules on this subject to the district of Vipasca. The former theory has been defended by Mispoulet, the latter by Cuq. According to Zocco-Rosa, the data at our command are inadequate to determine which of these two theories is correct. The chief interest of the newly discovered law lies in the fact that it sets forth rules under which pits may be sunk and veins followed up by any persons or associations on payment of royalties to the fiscus. Concessions not actively worked are open to "occupation" by others. When pits are being worked on shares, summary expropriation proceedings may be brought against shareholders who fail to pay promptly their proportion of the expenses. Stringent penalties are imposed upon "vein thieves" and upon persons damaging the timbering of the mines. Professor Zocco-Rosa inserts in his pamphlet the text of both tables, retaining the linear arrangement of the original inscriptions.

To collect in one series of volumes the more important contributions to the history of English and American law which are scattered through back numbers of periodicals or buried in the proceedings of learned

societies; to arrange these contributions in more or less systematic order and, by reprinting certain portions of standard books, "to give a certain symmetry to some topics and periods which would otherwise have been imperfectly represented," is the task undertaken by a committee of the Association of American Law Schools, consisting of Professors J. H. Wigmore, Ernst Freund and W. E. Mikell. Of the *Select Essays in Anglo-American Legal History* which they are thus bringing together, a first volume has appeared (Boston, Little, Brown and Company, 1907; x, 847 pp.). This volume is devoted to "General Surveys"; and as such matter is more often found in books than in single articles, it is not surprising that, of the twenty-one selections, eleven are extracted from more or less well-known books. Legal and historical journals, American university publications and transactions of societies furnish most of the other selections; but the long and very readable essay on "The Five Ages of the Bench and Bar of England," by Mr. J. M. Zane of the Chicago bar, is practically new matter, only a small part of it having previously appeared in print. The good judgment shown in the compilation and editing of this volume warrants the assumption that the following volumes will be of at least equal value; and as these are to deal with more special topics, it is probable that in them the element of fugitive literature will be more largely represented.

The international character of modern jurisprudence is illustrated by the fact that a young American scholar, trained in the Harvard Law School and in the University of Berlin, is now a reader in English law at the University of Cambridge, and by the further fact that most of his literary work has been published in German. Dr. H. D. Hazeltine is indeed known to American lawyers by his articles on "The Gage of Land in Mediæval England," which were published not long ago in the *Harvard Law Review*; but only those who follow the German legal literature have read his doctoral dissertation, published at Berlin in 1905, on *Englisches Mobiliarpfandrecht im Mittelalter*. This treatise he has now expanded into a book, entitled *Die Geschichte des englischen Pfandrechts*, which appears as number 92 in Gierke's "Untersuchungen zur deutschen Rechtsgeschichte" (Breslau, M. und H. Marcus, 1907; xxviii, 372 pp.). For the benefit of his German readers, Dr. Hazeltine devotes sixty introductory pages to a sketch of the general development of English law, particularly the law of property and of contracts. Book I of the body of the treatise deals with the law of pledge and mortgage in the Anglo-Saxon period; Book II, which fills half of the volume, carries the investigation from the Nor-

man Conquest to the close of the middle ages. An appendix reproduces the principal texts, Latin, Saxon and Norman-French, which bear upon the development of the mortgage of real property; and the book closes with a useful list of the sources and literature and a careful index. The monograph is well worth publishing in English; and although it is to be hoped that the author will investigate some of the interesting questions which he leaves open (*cf.* page viii), it is also to be hoped that he will not hold back the English version until all obscure points are elucidated.

Every legal system recognizes standards of morals which it does not attempt to formulate. Even if the law goes no further in this direction, it at least refuses to enforce contractual or testamentary provisions which are *contra bonos mores*. The new German imperial code goes further, attaching more positive results to "the offence against morals." Such rules force upon the courts and upon legal writers two questions: (1) Where is the judge to find his standards of morals? (2) What acts, not in conformity with those standards, are to be regarded as offences against morals? To these two questions Professor Leonhard devotes an essay entitled *Der Verstoss gegen die guten Sitten* (Weimar, Hermann Bohlaus Nachfolger, 1907; 30 pp.), which is a reprint from the *Festschrift* in honor of E. J. Bekker. In answering the first question, Professor Leonhard upholds the theory now generally accepted not only in continental Europe but also in English-speaking countries. The standards of morals are, so far as the judge is concerned, objective. It is the opinion of the community, as evidenced in its conduct, and not the opinion of the court that should be decisive. In answering the second question, Professor Leonhard denies that all immoral acts are, in the legal sense, offences against morals. We are to consider, in each case, whether the immoral act is likely to set a bad example, and whether its recognition as legally permissible will establish a dangerous precedent. "The offence against morals lies in the menace to their maintenance" (page 20). The author endeavors to show that the decisions recorded in Justinian's Digest and those rendered by modern German courts are in accordance with this principle, and that its application solves certain current controversies.

In view of the pending revision of the American copyright laws and the numerous controversies which have arisen from the attempt to consolidate the law on this subject in a single act, the movement of judicial decisions in this field is of special interest. The collection of English and American *Copyright Cases, 1907* (London, The Publishers' Association, 1908; vii, 134 pp.), made by Mr. E. J. Macgillivray, the

author of well-known works upon the subject, and printed "for private circulation," shows, among other things, that the modern methods of reproducing pictures and musical compositions and the new commercial interests thereby created are raising many new legal problems; and the question arises whether the difficulties which our federal legislators are encountering are not due to the fact that the law of copyright is still in that stage of development in which the experimental lawfinding of the courts is distinctly more efficient and more satisfactory than legislation.

The flood of state legislation in this country invites comparative study of its tendencies and results; and in this field there is room for the coöperation of many public and private agencies without duplication of effort. The Legislative Reference Bureau of the Rhode Island State Library has undertaken to summarize, in a series of bulletins, the legislation upon special subjects now in force in sister states. Of the three bulletins thus far issued, the first deals with the veto power in the several states; the second, with the automobile laws of a group of eastern states; and the third, compiled by Grace Mabel Sherwood, is described as a *Summary of the General Banking Laws of the Commercial States* (Providence, E. L. Freeman Company, State Printers, 1908; 334 pp.). The "commercial states" of the Union are, it seems, only nineteen in number, and the list is somewhat arbitrary, including Kansas and Nebraska but excluding the Gulf states and California. Provisions of the banking laws in the nineteen selected states are reproduced under seventeen rather haphazard headings. Under each of these headings the legal provisions are grouped, not under topical sub-headings, but by states. For either practical or scientific purposes, the *Summary* would be more useful if the topical classification had been carried further; and the reduction of the whole mass of material to a series of rules, each followed by a list of the states in which it obtains, as in Stimson's *American Statute Law*, would save much repetition of identical or equivalent provisions.

Professor John A. Fairlie has collected in a volume of *Essays in Municipal Administration* (New York, The Macmillan Company, 1908; vii, 374 pp.) nineteen papers which have already appeared in various journals. In spite of their miscellaneous character, the essays can be readily divided into three main groups: the first relating to problems of legal organization, the second to municipal functions, and the third to city government in Europe. While all the papers are worth reprinting in their present form, those dealing with municipal corporations in the colonies, the municipal crisis in Ohio, revenue systems of



American and foreign cities and the street railway question in Chicago will perhaps prove to be of most permanent value. The essays on municipal activities in Great Britain and continental Europe will be of interest principally to those who do not read the more exhaustive works or are not versed in European languages. In the nineteenth chapter, directed especially to teachers of government, Dr. Fairlie outlines a scheme of civic instruction extending from the primary grade to the highest technical training afforded by the university. Altogether this volume will form a most useful supplement to the author's well-known *Municipal Administration*.

Professor Charles Zueblin's *Decade of Civic Development* (Chicago, The University of Chicago Press, 1905 ; vii, 188 pp.) is a reprint of several popular articles which appeared a few years ago in *The Chautauquan*. Among the topics considered are the recent growth of civic spirit in American cities, the elements in the education of a citizen, the principal features involved in the making of the city, the influence of expositions on municipal planning, civic improvements in Boston, Greater New York, Harrisburg and Washington. Professor Zueblin contends that a new civic spirit has appeared in our municipalities during the past ten years and supports his thesis by citing a large number of practical and beneficial measures which have been accomplished in various cities. One striking feature of the author's record of improvement is the effectiveness of combinations among a few determined citizens and the readiness with which wider coöperation is generally secured.

Mr. Robert H. Fuller's *Government by the People* (New York, The Macmillan Company, 1908 ; xiv, 261 pp.) is a political primer for voters, informing them concerning all the operations of government in which they may personally participate. It contains valuable chapters on election laws, ballot reform, party caucuses and conventions, party practices, primary legislation, qualifications for the exercise of the suffrage, and party platforms for 1904. While the book is limited in its references, which are principally to the state of New York, it has general value. It serves at the same time as an important indication of the need for a thorough treatment of the field which has thus been opened.

Professor Albert Bushnell Hart's *Manual of American History, Diplomacy and Government* (Published by Harvard University, 1908 ; xvi, 554 pp.) is the product of many years' teaching experience at Harvard, and on account of the large collection of topics offered and the extensive bibliographical apparatus it will be found useful by teachers

in other institutions. The volume contains a guide to the materials on American history, diplomacy and government; a syllabus of lectures with selected references; a long list of topics for class-room papers, each with appropriate bibliography; suggestive subjects for library reports; and specimen examination papers. The volume would doubtless be more serviceable and less formidable to the undergraduate if it were broken into three parts, dealing with history, diplomacy and government separately.

Mr. Frederick Scott Oliver's biographical study, *Alexander Hamilton: an Essay on American Union* (New York, G. P. Putnam's Sons, 1907; xiii, 502 pp.), is of that class of historical works which are intended not to reveal new facts but to envisage a man and his age from a new angle. Such enterprises are always of interest and often of practical bearing, especially when carried out with such discrimination and literary skill as Mr. Oliver has manifested. It would be clear, had our author not revealed it in his closing pages, that the great lesson of the book is the necessity of consolidating the British Empire; and Hamilton, the firm administrator and grand visionary, moved by a passion for an imperial American nation, is the figure that Mr. Oliver presents to his British compatriots. Almost every line vibrates with those emotions which are to-day driving England away from the age of John Bright. It is evident, therefore, that the volume is full of tendency; but let him who has not sinned cast the first stone. The author has shown a far clearer grasp of American conditions than most English writers; and, decided as are his sympathies for Hamilton, he has that quality of historical imagination and tolerance which enables him to understand Jefferson as well. Although in matters of fact there is little new for the American student, the volume will none the less be of service to him.

Dr. Elmer C. Griffith's *Rise and Development of the Gerrymander* (Chicago, Scott, Foresman and Company, 1907; 214 pp.) is a brief but useful study of an important and long neglected theme of American politics. The author reviews the gerrymander from its origin in colonial times to the year 1840, at which time it had become a generally recognized part of the political system. Those who fondly imagine that it is only we who have fallen on evil days will be surprised on discovering the antiquity of the institution so intimately associated with the name of Governor Gerry. It appears to have been a practice of colonial governors to fashion districts so as to secure supporters, and the sedate colony of Pennsylvania, within a quarter of a century of its first charter, had election districts cut out with partisan designs. In

is a sketchy account of a rambling tour through Montenegro, Albania, Bosnia, Herzegovina, Servia, Bulgaria, Roumania, Turkey and Macedonia. It would be more readable if it did not reek with offensive self-importance and oracular platitude. The photographic illustrations are very numerous and far more interesting than the text. Yet when all this is said the fact remains that the book is worth a perusal. The residuum of impression will fairly represent the present-day conditions. The preface is dated from Sofia, the author is Bulgarian in sympathy, has a profound contempt for Austria's work in Bosnia, praises Servia and execrates Greece as a tool of Germany. He writes primarily for an English public. This seems to account for his opinion that Bulgaria is to win England's battles in Turkey, if war must come, and if this be within the scope of the *entente* between Russia and Great Britain.

It is well for Americans to realize that the great migration of Europeans to this country is but a part, although the larger part, of the overflow of Europe. With most of the facts brought out in R. Gonnard's *L'Émigration européenne au XIX<sup>e</sup> siècle* (Paris, Armand Colin, 1906; 297 pp.) we are already acquainted, through many publications issued in this country; but the peculiar point of view from which the author approaches the subject and the convenient and critical assemblage of statistics from all countries which he offers give the book value to American readers. The French point of view is interesting on account of its plaintive contentment with its own stationary population. The millions of emigrants sent out by its overpeopled neighbors to occupy new worlds afford no satisfaction to the countries which they abandon. The German, the Slav, the Italian, go to swell the numbers that yield obedience to the sovereignty of Anglo-Saxon nations. Yet the Anglo-Saxons get no advantage, because their own race is becoming stationary, like the French, under the doctrines of Neo-Malthusianism. We may doubt the author's prediction (page 61) of the Latinizing of the United States through *la prolificité* of the Latin races and the sterility of the *type britannique*, and we might suggest that the prompt Americanization of the Germans (page 149), which he mentions with satisfaction, is paralleled by that of the Latins under similar surroundings. The author's general conclusion is perhaps sound, that the new worlds will not be exclusively Anglo-Saxon, German or Slav, but will be divided among all races of Europe. The one point where the yellow races have a chance of encroaching is Australasia (pages 70 *et seq.*); and this chance is afforded by the exclusiveness and the sterility of the Anglo-Saxon colonials.

# POLITICAL SCIENCE QUARTERLY

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## POPULAR LEGISLATION IN THE UNITED STATES

### THE DEVELOPMENT OF THE SYSTEM

**N**EITHER the initiative nor the referendum is new even in America. Both were employed in colonial Rhode Island before the middle of the seventeenth century.<sup>1</sup> The initiative, as early as the third year of the Revolutionary War, was embodied in the first constitution of Georgia.<sup>2</sup> It was proposed and nearly adopted in the Pennsylvania convention<sup>3</sup> of 1837, and it was introduced in a modified form into the Virginia instrument<sup>4</sup> of 1850. The referendum has had a much more extensive history. It was frequently employed in colonial times, especially in New England, and during the nineteenth century it came to be used in many states, particularly in local legislation; while the constitutional referendum, adopted in all the states with the single exception of Delaware, has familiarized the American people with the practice of the direct popular ratification of the fundamental laws. But the revival and combination of the two systems in such a way as to include all legislation is recent.<sup>5</sup> Public interest in the subject appears to

<sup>1</sup> Records of the Colony, I, 148, 149.

A distinguished Rhode Island writer says that "the power of the freemen of the towns to initiate legislation has never been formally abolished but is only lost through non-use." Amasa M. Eaton, in 13 *Harvard Law Review*, p. 588.

<sup>2</sup> Article lxiii.

<sup>3</sup> Proceedings and Debates, XII, 58, 84.

<sup>4</sup> Article iv, section 5.

<sup>5</sup> This is even more true of England. So late as 1863, Mr. Freeman said: "No-body has ever proposed that every adult male should vote in the making of laws, but only in the choosing of lawgivers." History of Federal Government, p. 72, note.

have been first aroused in our time by the publication, a score of years ago, of Mr. Bryce's classical study of American politics,<sup>1</sup> and it was increased by Dr. Borgeaud's writings.<sup>2</sup> The comparison of our political institutions with those of the Swiss was a revelation to most Americans and led to a study of the earlier half-forgotten chapters in our national experience. Ten years have now elapsed since the subject first passed from academic discussion to practical legislation, and it seems a fitting time to review the progress of the movement and estimate its results.

*South Dakota.*—The first formal adoption in America of the initiative and referendum as applicable to all legislation occurred in South Dakota. In 1897 a joint resolution was passed by the legislature of that state, proposing an amendment to the state constitution.<sup>3</sup> It provided that

The legislative power of the state shall be vested in a legislature, which shall consist of a senate and house of representatives, except that the people expressly reserve to themselves the right to propose measures, which measures the legislature shall enact and submit to a vote of the electors of the state, and also the right to require that any laws which the legislature may have enacted shall be submitted to a vote of the electors of the state before going into effect, except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions.<sup>4</sup>

The section further provides that not more than five per cent of

<sup>1</sup> The American Commonwealth (1888), I, 448 *et seq.*

<sup>2</sup> Rise of Modern Democracy in Old and New England (1894), Adoption and Amendment of Constitutions (1895).

<sup>3</sup> South Dakota Laws, 5th session, ch. 39.

<sup>4</sup> The last clause has been construed by the Supreme Court of South Dakota, in connection with other constitutional provisions, to include legislative acts passed with the so-called emergency clause, to which, it is held, the amendment does not apply. State *ex rel. Lavin v. Bacon*, 14 South Dakota, 394. This, it will be seen, may sensibly narrow the scope of the referendum, since the legislature may decide to insert an emergency clause in any act. The decision is based, however, upon the peculiar wording of the South Dakota constitution.

the electors need petition to invoke its provisions, that the governor's veto power shall not be applicable thereto, and that the system shall apply to municipalities.<sup>1</sup>

The proposal came before the people in November of the following year and was adopted by a pronounced majority.<sup>2</sup> By its terms the legislature was directed to make suitable provisions for carrying the measure into effect;<sup>3</sup> and at its ensuing session that body passed an act providing the method of invoking the privileges of the amendment in the case of state legislation,<sup>4</sup> and an act making it applicable to municipal ordinances and resolutions.<sup>5</sup> The state is said to have secured fairly satisfactory results from the operation of the law.<sup>6</sup>

*Utah.*—The next state to make provision for direct popular

<sup>1</sup> South Dakota Laws, 1897, ch. 39, sec. 2.

In the same year, but a little more than a month later, the Nebraska legislature passed an act extending the referendum to any "municipal subdivision." Nebraska Laws, 1897, ch. 32; Nebraska House Journal, 1897, p. 1160.

In 1901, the Illinois legislature passed "an act providing for an expression of opinion by electors on questions of public policy at any general or special election." The initiative must be taken by ten per cent of the registered voters of the state or twenty-five per cent of those of a smaller subdivision. Illinois Laws, 1901, p. 198.

In 1905 the Texas legislature enacted an elaborate election law (Texas General Laws, 1905, 1st called session, ch. 11, sec. 142) which provides, *inter alia* :

"Whenever delegates are to be selected by any political party to any state or county convention by primary election or primary convention or candidates are instructed for or nominated, it shall be the duty of the chairman of the county or precinct executive committee of said political party upon application of ten per cent of the members . . . to submit at the time and place of selecting said delegates any proposition desired to be voted on by said voters, and the delegates selected at that time shall be considered instructed for whichever proposition for which a majority of the votes are cast." Details as to the manner of invoking the system are also provided and have already been applied. See *Referendum News*, vol. i, no. 8, p. 9.

<sup>2</sup> 23,816 as against 16,483; South Dakota Laws, 7th session, 1901, p. xii, note. Governor Lee, in his message to the legislature of 1899, closed as follows a passage devoted to praise of the new system: "The large plurality by which the amendment was ratified at the polls indicates how generally its simple provisions were understood and how popular they were with the masses who will be beneficiaries of their successful operation." South Dakota House Journal, 6th session (Pierre, 1899), pp. 131, 132.

<sup>3</sup> South Dakota Laws, 5th session, ch. 39, sec. 2.

<sup>4</sup> *Ibid.*, 6th session, ch. 93.

<sup>5</sup> *Ibid.*, ch. 94.

<sup>6</sup> M. A. Schaffner, "The Initiative, the Referendum and the Recall," in *American Political Science Review*, II, 33.

legislation was Utah. Its legislature in 1899 proposed by joint resolution<sup>1</sup> a constitutional amendment establishing the initiative and the referendum. After reciting that the law-making power shall be vested in the people as well as in the legislature, it was provided that

The legal voters, or such fractional part thereof, of the state of Utah as may be provided by law, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people for approval or rejection, or may require any law passed by the legislature (except those laws passed by a two-thirds vote of the members elected to each house of the legislature) to be submitted to the voters of the state before such law shall take effect.<sup>2</sup>

A subsequent clause made the same provision applicable to "any legal subdivision of the state" and "the law-making body" thereof.<sup>3</sup> The entire proposal was voted upon at the election in November, 1900, and it was adopted by a majority of nearly three to one.<sup>4</sup>

Notwithstanding this emphatic expression of popular approval, the movement seems to have made little further progress in Utah. Governor Wells, in his message of 1901,<sup>5</sup> called attention to the fact that legislation was necessary in order to carry these provisions into effect; and it is apparent that this is even more true than in South Dakota, since by the express terms of the Utah amendment the conditions, manner and time of the popular initiative and the number of voters requisite are left to be "provided by law." Up to this time, however, the necessary laws have not been enacted.

*Oregon.*—The movement toward the new system of legislation began in Oregon earlier than in Utah, but it was retarded by the constitutional requirement<sup>6</sup> of action by two successive

<sup>1</sup> Utah Senate Journal, 3rd session, p. 453.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> 19,219 as against 7786; Report of the Utah Secretary of State, 1899-1900, p. 46.

<sup>5</sup> *Ibid.*, p. 39.

<sup>6</sup> Oregon Constitution, art. xvii, sec. 1.

legislatures. On February 6, 1899,<sup>1</sup> the governor approved a concurrent resolution<sup>2</sup> of the two legislative branches proposing a constitutional amendment providing for the initiative and referendum. This amendment was more elaborate in its phraseology than either the South Dakota or the Utah amendment. It contained most of the provisions of the former, but it did not include municipal legislation. The second step was taken at the session of 1901, when an act<sup>3</sup> was passed formally submitting the amendment to the voters. It came before them at the June election of 1902, and was ratified by a majority of about eleven to one.<sup>4</sup>

While the Oregon amendment was more complete in detail than any previously adopted, it nevertheless contemplated further legislation affecting procedure. This was provided in 1903 by a comprehensive act which applied not only to ordinary statutes but to constitutional amendments as well.<sup>5</sup> It greatly reduced the time required to procure adoption of the latter; and it permitted the distribution by the secretary of state of literature furnished by the advocates and opponents of any proposed amendment.<sup>6</sup>

The amendment had yet, however, to run the gauntlet of the courts. In 1903 an action reached the Supreme Court in which the validity of the amendment was assailed on several grounds, one of which was that it violated the article of the federal constitution guaranteeing to each state "a republican form of government." The court in an exhaustive opinion upheld the amendment *in toto*, and as to the objection just mentioned it observed: "The initiative and referendum amendment does not abolish or destroy the republican form of government or

<sup>1</sup> The Utah resolution was passed on March 9 of the same year.

<sup>2</sup> Oregon Laws, 1899, p. 1129.

<sup>3</sup> *Ibid.*, 1901, p. 4.

<sup>4</sup> 62,024 as against 5668, the total vote cast at the election being 92,920. New York State Library Report, 1903, p. 723.

<sup>5</sup> Oregon Laws, 1903, p. 244.

<sup>6</sup> *Ibid.*, sec. 8. See a discussion of this feature in an article by Professor George H. Haynes, "The Education of Voters," in *POLITICAL SCIENCE QUARTERLY*, XXII, 484-497. The entire act has been superseded by the more elaborate provisions of ch. 226 of Oregon Laws, 1907.



substitute another in its place. The representative character of the government still remains. The people have simply reserved to themselves a larger share of legislative power.”<sup>1</sup>

The people of Oregon have not been slow to avail themselves of the new system. Through it they have already adopted a direct primary law,<sup>2</sup> a local option law,<sup>3</sup> constitutional amendments<sup>4</sup> extending the system to municipal legislation and allowing the referendum as to items and parts of acts,<sup>5</sup> laws imposing taxes upon the gross earnings of public-service corporations and prohibiting free passes.<sup>6</sup> As this is but the partial<sup>7</sup> fruitage of only half a dozen years, it would seem that the system is destined to play a large part in the legislative history of the “Sunset State.”

*Nevada.*—As in Oregon, so in Nevada, which was the next state to take action on the referendum, an amendment to the constitution<sup>8</sup> requires the approval of two successive legislatures. The Nevada legislature of 1901 adopted a joint and concurrent resolution<sup>9</sup> embodying the principle of the referendum but not providing for the initiative. At the session of 1903 this resolution does not appear to have been specifically approved, but another was adopted with almost the same phraseology as the Oregon amendment.<sup>10</sup> The amendment ratified by the people at the general election of 1904<sup>11</sup> appears, however, to have been that which was proposed in 1901, and as such it was inserted in an official edition of the constitution as amended,<sup>12</sup> perhaps on the theory that the second resolution necessarily included and involved approval of the first. Inasmuch, however,

<sup>1</sup> *Kadderly v. Portland*, 44 Oregon, 118, 145. See a discussion of this case in *The Arena*, XXXII, 128.

<sup>2</sup> Oregon Laws, 1905, ch. 1.

<sup>3</sup> *Ibid.*, ch. 2.

<sup>4</sup> N. Y. State Library Bulletin of Legislation, 110 (1906), 115c.

<sup>5</sup> Oregon Laws, 1907, ch. 1, 2.

<sup>6</sup> *Referendum News*, vol. 1, no. 9, p. 3.

<sup>7</sup> *Ibid.*

<sup>8</sup> Nevada Constitution, art. xvi, sec. 1.

<sup>9</sup> Nevada Laws, 20th session (Carson, 1901), p. 139.

<sup>10</sup> *Ibid.*, 21st session (Carson, 1903), p. 231.

<sup>11</sup> *Ibid.*, 22nd session (Carson, 1905), pp. 339, 340.

<sup>12</sup> *Ibid.*

as the constitution expressly requires<sup>1</sup> that "such proposed amendment . . . shall be agreed to" by the second legislature, it would seem to preclude the substitution of an amendment which, although embodying the substance of the original proposal, varies therefrom in form. In the latest official edition<sup>2</sup> of the Nevada constitution the amendment in question is omitted.

*Missouri.*—In 1903 the legislature of Missouri adopted a joint and concurrent resolution<sup>3</sup> proposing a constitutional amendment which provided, in much the same phraseology as that adopted in Oregon, for the initiative and referendum. It came before the electors of Missouri but failed of adoption.<sup>4</sup> This seems to be the first instance of such a failure where the system has been placed fairly before the people. The legislature of 1907, however, resubmitted the proposal<sup>5</sup> in slightly modified terms,<sup>6</sup> and it comes again before the voters at the general election of 1908.

*Montana.*—In 1905 the Montana legislature proposed an initiative and referendum amendment,<sup>7</sup> which appears to have been modeled upon the Oregon provision. This amendment went to the people at the general election of 1906 and was adopted.<sup>8</sup> In 1907 the legislature passed an act regulating the details of procedure, and including the Oregon plan for instructing the voters by means of literature furnished by those initiating or opposing a measure and distributed by the secretary of state.

<sup>1</sup> Art. xvi, sec. 1.

<sup>2</sup> Nevada Laws, 23rd session (Carson, 1907), p. 486.

<sup>3</sup> Missouri Laws, 1903, p. 180.

<sup>4</sup> *Ibid.*, 1905, pp. 312-325. N. Y. State Library Legislative Bulletin, 1904, 115b.

<sup>5</sup> Missouri Laws, 1907, p. 452.

<sup>6</sup> Laws appropriating money for current expenses and state institutions are excepted. A petition of eight per cent is required for the exercise of the initiative and ten per cent for the referendum, while municipal legislation is not expressly included.

<sup>7</sup> Montana Laws, 1905, ch. 61.

<sup>8</sup> N. Y. State Library Index of Legislation, 1906, 115b.

<sup>9</sup> Montana Laws, 1907, ch. 62.

*Delaware.*—Although Delaware is distinguished as the one state in which the people have had no share in adopting or amending a constitution, and although the statutory referendum has been almost unknown there,<sup>1</sup> its legislature in 1905 submitted<sup>2</sup> to the electors the question: "Shall the general assembly of the state of Delaware provide a system of advisory initiative and advisory referendum?" The election was held in November, 1906, and of those voting on the question six-sevenths expressed themselves in its favor.<sup>3</sup> One year later the system was applied in determining whether liquor licenses should be granted, a majority of the electors in two out of the three counties voting in the negative.

*Maine.*—At its session of 1907 the legislature of Maine adopted an elaborate proposal<sup>4</sup> for a constitutional amendment establishing direct popular legislation. It includes the main features of the Oregon measure. It also provides for public hearings before the legislature and for selection from several competing measures. This amendment was adopted by a very large majority at the state election in September, 1908.

*North Dakota.*—The legislature of this state also submitted in 1907, to be voted on in 1908, an amendment to the constitution providing for the initiative and referendum. It likewise embodies many provisions of the Oregon law, but is expressly declared to be self-executing, and it fixes as the basis for determining whether a measure has received a popular majority the vote cast for justices of the Supreme Court.<sup>5</sup>

*Oklahoma.*—The latest commonwealth (prior to 1908) to join the movement for the initiative and referendum, and the first to

<sup>1</sup> The one conspicuous instance—the attempted submission of a prohibitory liquor law in 1847—was frustrated by the decision of the Supreme Court in *Rice v. Foster*, 4 Harr. (Del.), 479.

<sup>2</sup> Delaware Laws, 1904-05, ch. 53.

<sup>3</sup> N. Y. State Library Index of Legislation, 1906, 115a.

<sup>4</sup> Maine Acts and Resolves, 1907, ch. 121.

<sup>5</sup> For the text of this proposed amendment, see *Equity*, vol. ix, p. 7.

embody it in an original constitution, is Oklahoma. This newest of our states enters the Union with a fundamental code, ratified by an unusual majority, which devotes an entire article<sup>1</sup> to the new system. In general, Oklahoma follows the Oregon plan, but the system is made applicable to items and parts of acts<sup>2</sup> and to county, district and municipal legislation.<sup>3</sup> The article appears sufficiently specific to be self-executing, but it provides for further legislation "to prevent corruption in making, procuring and submitting initiative and referendum petitions."<sup>4</sup>

Such then is the present status of the initiative and referendum in America, as revived and reestablished upon Swiss models. Without assuming to forecast the future we may summarize the results as follows:

(1) Everywhere the system is merely an alternative one. No attempt has been made to abolish law-making by the representative legislature, but only to supplement it with law-making by popular vote, and this, too, not in all cases, since matters requiring speedy action are still left to the representative body.

(2) While the present movement started in the trans-Missouri region and has had its greatest development there, it has also spread to other states, including the one state which has never employed the constitutional referendum. The movement has not been confined to states dominated by either one of the two great political parties. The movement, in fact, is neither sectional nor partisan.

(3) The system has as yet been fairly tested in one state only, Oregon. If it has there produced evil results, they have not been made known to the country at large. No radical or otherwise objectionable measures have been enacted by this method. The two most conspicuous achievements of direct popular legislation in Oregon—the laws providing for the direct primary and for taxing the gross earnings of corporations—have long been urged by conservative reformers elsewhere. Nor

<sup>1</sup> Oklahoma Constitution, 1907, art. v.

<sup>2</sup> *Ibid.*, sec. 4.

<sup>3</sup> *Ibid.*, sec. 5.

<sup>4</sup> *Ibid.*, sec. 8.

has there been any such lack of interest on the part of the electorate as would indicate that good measures are likely to fail, or bad ones to be adopted, through the indifference of the better class.<sup>1</sup> At the last general election in Oregon the vote on one of the measures submitted rose to seven-eighths of the total vote for governor.<sup>2</sup> Even in a state where, though authorized, it has been little used,<sup>3</sup> its value in abolishing the lobby has been attested by the chief executive.<sup>3</sup>

Finally the educational influence of the system, especially when coupled with special features like those already noticed in Oregon and Montana, should not be ignored. The movement on the whole is one of the most significant of contemporary political tendencies in America and furnishes a subject for profitable study and thoughtful consideration.

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[For the results of popular votes in November, 1908, on initiative and referendum amendments, see *infra*, RECORD OF POLITICAL EVENTS, UNITED STATES, STATE AFFAIRS.—EDS.]

<sup>1</sup> See article by W. S. U'Ren, *The Arena*, XXXII, 128.

<sup>2</sup> See *Review of Reviews*, XXXIV, 143; POLITICAL SCIENCE QUARTERLY, XXII, 484, 494. The article last cited quotes a visitor in an Oregon village as saying: "There can be no question of the fact that the voters were much interested, and the more intelligent ones had a sense of responsibility which made them express themselves with a good deal of emphasis."

<sup>3</sup> See *The Independent*, LIV, 1977.

## POPULAR LEGISLATION IN THE UNITED STATES

### THE VALUE OF THE SYSTEM

**T**HE legislature is, in popular estimation, the least efficient of the departments of state government. In our states the executive and judiciary are seldom subjected to severe criticism. Adverse comment upon these departments is directed almost entirely against individuals rather than against the system. When the legislature is mentioned, however, there is a feeling that representative government has to a considerable extent failed and that a radical change is needed. The remedy usually advocated is the initiative and the referendum.

Direct popular legislation is, of course, no new thing, nor is it incompatible with representative government. We have constantly had primary as well as representative legislation. Massachusetts had its town meetings as well as its General Court. We have long had the referendum for constitutional amendments. Our legislative system, however, is and will continue to be in the main representative. The initiative and referendum do not concern themselves with the ordinary mass of legislation. They only modify the present system by endeavoring to afford exceptional relief in extreme cases. If any extraordinary relief is necessary, we must then determine whether the initiative and referendum are the best means for meeting the situation. This is not a question as between democracy and aristocracy, but as between good or poor laws. Will the initiative and referendum improve our statutes?

Before this question can be answered it is necessary to determine wherein and to what extent our present legislative system has failed. It is not necessary to enumerate all the defects of our legislatures and to show the nature and extent of each defect, nor would this be possible within the limits of a single article. It is desirable, however, briefly to indicate the directions in which legislative dereliction is possible and the evils which the initiative and referendum are expected to cure.

The legislature may sin by commission. It may and does enact laws which are unwise, uncalled-for, ill-considered or positively bad; and the number of these laws is so great that some remedy is called for to prevent their further increase. Among the laws which are especially objectionable are those that extend improper favors to special interests; those that attempt unwise interference with human conduct; and those that are intended to accomplish a proper purpose but are so poorly worded and ill arranged that their object is not attained.

The body of state laws falling under the first category is not large. Acts which make special grants of franchises or powers are not numerous; our legislatures offend less often in this manner than do our municipal councils. Nearly all our state constitutions contain prohibitions against special legislation, and the extension of legislative power in this direction is undoubtedly best curbed by such constitutional limitations and their careful enforcement by the courts. Measures which are general in form but which are intended to benefit some politically powerful class are probably more numerous. Whether the class that is benefited consists of capitalists or of laboring men, the desirability of some device which will check legislative encroachment in this direction must be admitted.

As regards the second category of objectionable laws, those which interfere unwisely with human conduct, critics necessarily differ. What seems unwise and therefore objectionable to one man appears wise and desirable to another. Everything depends upon the point of view of the critic, upon the system of social and political philosophy of which he is an adherent. The great legislative activity of recent years in the regulation of business is regarded by some as an indication of the highest wisdom; by others it is considered as an unwarranted interference in private affairs, resulting in disaster not only to the businesses affected but also to the public. Legislative activity in this direction is in accordance with the collectivist spirit of the times. *Laissez faire* is political bad form. The majority of social thinkers, and especially those who advocate the initiative and referendum, do not regard the work of our legislatures in this direction as in need of any check.

The third class of objectionable laws, consisting of measures that are defective in form, that fail to accomplish the desired end because of the lack of skill with which they are drawn, is undoubtedly very large. An examination of the session laws of the last few years shows many laws which are apparently designed to accomplish laudable objects but which are so worded and arranged that their meaning is doubtful and their efficacy very problematic.

Probably the direction in which legislatures are commonly supposed to be most at fault is in failing to enact laws which are really necessary. They undoubtedly refuse to pass laws which are for the public interest; decline to accede to demands for the correction of evils; neglect to recognize needs for advanced legislation. The extent to which they have thus failed is, however, a debatable question. Here, too, everything depends upon the point of view. During the last few years our lawmakers have undoubtedly responded to popular demands for the regulation of railroads, of public-service corporations and of insurance companies. Where they have failed to meet more radical views it is probably because the more radical element is in the minority.

This is then the bare outline of the modern legislative problem. It is recognized as desirable to prevent the passage of laws which are in themselves bad; to improve the form of laws which seek to bring about a desired result; to secure laws which will better and more adequately correspond to modern conditions. To what extent will the initiative and referendum assist in the solution of this problem? A consideration of this question require sfirst an examination and explanation of these plans for direct legislation.

The referendum consists in a popular vote upon a proposed law. It may be either optional with the legislature or obligatory upon it. In the former case, the legislature which desires for some reason to obtain an expression of the popular sentiment upon a pending measure may provide that it shall not be in force until ratified at an election. This device has sometimes been resorted to under our present legislative system, but in many states it is not now allowed because it is con-



sidered a delegation of legislative power. Where no such constitutional prohibition stands in the way, a legislature may at any time attach such a condition to a law. In states where this is not allowed, a simple constitutional amendment would change the situation. There exists, however, no particular sentiment in favor of the extension of the optional referendum.

The obligatory referendum provides that the ordinary legislative enactment shall be suspended for a certain time, usually ninety days from its passage. During that period a petition filed by a designated percentage of the voters may further set aside any law until it can be submitted to and ratified by a popular vote. Under some of these provisions the filing of a petition signed by the minimum number at once nullifies the law, while in others a larger petition is required to prevent the law from taking effect. After such a petition is filed, the vote is usually taken at the next general election. From the operation of this referendum petition are excluded certain emergency measures, including appropriation bills, which require a special vote for their enactment in the legislature.

The other use of the obligatory referendum is after a bill has been submitted by an initiative petition. In such a case the bill either goes directly before the people for a referendum vote or is presented to the legislature for its action. Should the legislature adopt the bill, it is treated like any other legislative act and is not subjected to the referendum unless a petition calling for such a vote is filed as in other cases.

The initiative is the power given to the people to propose bills. In all the plans presented for consideration the initiative is coupled with the referendum. The referendum, as already indicated, may stand alone and operate only upon bills which have passed the legislature. The initiative cannot stand alone. The mere power to submit a bill to the legislature does not require any special or novel machinery. Under our present legislative system any body of voters, however small, may easily have any special measure brought to the attention of the law-makers, as there is always some member who will introduce a bill "by request." In addition to the power to introduce the bill, there is needed the power to compel its adoption. This additional power is found in the referendum.

As has already been noted, the intervention of the legislature between the initiative and the referendum is not absolutely necessary. In what may be called the most democratic form of this plan, the bill, accompanied by the requisite petition, is filed with the proper officer, who thereupon submits it for ratification at the next election. If approved, it becomes a law without further legislative action. If carried to its logical extreme, this plan might do away with the legislature entirely; but at present it is intended to be employed in emergencies only, when legislative action cannot otherwise be secured.

Where the bill is first presented to the legislature for its action, two plans are proposed. Ordinarily the bill must be adopted without amendment or it is treated as rejected and thereupon goes before the people for their action at the next election. According to the other plan, recently adopted in Maine and proposed in North Dakota, the legislature may propose an alternative bill, in which case both measures are submitted and the one receiving the highest vote becomes the law.

It is evident that the initiative and referendum are complementary. The referendum when used alone affords a check upon legislative action but does not provide for positive action by the people. The initiative when used alone is practically worthless. The combination of the two plans affords to the people both opportunity to disapprove all laws which they do not want and means to compel the adoption of laws which they do want.

The optional referendum supposes a willingness on the part of the legislators to allow the people to pass upon their work. It is thus useless as a check to unwise legislation. If the members of the legislature do not regard the rights of the people, if they enact unwise or dangerous laws, they will not give the people an opportunity to vote upon these laws. The optional referendum therefore will be used almost exclusively when the legislature desires to shift from its own shoulders the responsibility for a particular law. The obligatory referendum, on the other hand, is not open to these objections. It allows the voters, if they so desire, to bring to a vote and to reject any

law which the legislature may propose. If the referendum is feasible, it thus affords a check upon unwise or improper legislation which the optional referendum does not afford.

In considering the value of the referendum, one of the principal tests which may be applied is to see whether the bills upon which it operates are ordinarily rejected. The referendum which habitually adopts laws, either because those which are brought under its operation by the petitions are those which are desired by the people or because the popular vote fails properly to express the best public sentiment, is useless. The state has been put to the trouble and expense of a referendum only to leave the matter exactly where it was before.

To the extent that bad laws consist in improper grants of power to special classes, the referendum may afford a wholesome check, and it is in this direction that most may be expected from it. The voters are much more ready to guard their interests when it is believed that valuable privileges or franchises are being given away than they are at any other time. But, as has been already indicated, in the modern state the number and importance of such laws is not great. The valuable franchises and grants of power are largely in the hands of the municipalities and smaller units. With the referendum in these cases we are not here concerned.

Where the legislature enacts improper laws for the benefit of one social class at the cost of another social class, the referendum may again be of benefit. An organized minority may control the election of a majority of the members of the legislature but may not be able to control the referendum vote; and in so far as this is the case, the plan would be a check upon improper laws of this kind. Whether such a minority would be able to control the popular vote depends upon the efficiency of the referendum as a registry of the best public opinion.

The tendency towards the more general regulation of affairs, and particularly of the business of the community, if an evil, would probably be little affected by the referendum. The great growth of law in this field, hasty and ill-considered as it sometimes may be, is undoubtedly the result of a demand on the part of the people. Few if any of the laws of this

nature passed in the last ten years, which have given rise to the complaint of "over-legislation," would have been defeated if submitted to popular vote.

In order that the referendum may operate as an efficient check upon bad laws it must be intelligently directed. Those laws which need to be held up must be discovered before the end of the ninety days within which it is usually provided that the petition must be filed, and the requisite petition must be secured and filed within this period. If the referendum is to operate effectively in this regard, there must be a careful examination of the laws by persons who are interested in legislative matters and who are willing to scrutinize the acts of the legislature and to devote themselves to the task of securing the necessary petitions. In all probability only a portion of the bad laws will be discovered to be bad within the time limit. Unless the present means for the publication of our state laws are greatly improved, the public generally will be ignorant of the provisions of a large majority of the laws for a considerable period after their passage. It may be expected, therefore, that only those laws in which there is a very general interest, or which so affect the interests of particular individuals that they will make it their business to see that the petition is secured, will be subjected to the popular vote.

One very real danger must be noted. This is that the referendum may be used not only against laws which have been secured by an active and well-organized minority, and which subserve special or class interests, but also to suspend until the next general election laws which are really desired by the people. In order that the referendum may have any effectiveness the percentage of voters necessary to secure the popular vote cannot be very large. It must be a number which can be secured without any real difficulty within the limited time. This requirement makes it possible for special interests which are adversely affected by legislation to prevent its taking effect for a considerable period. That this objection is not fanciful may be seen in the experience of South Dakota last year. In that state petitions have been filed for popular vote upon three laws passed by the legislature of 1907. These laws are: an

act extending to one year the period of residence necessary for securing a divorce, an act prohibiting the shooting of quail until 1912, and an act prohibiting theatrical exhibitions, circuses *etc.* upon Sunday.

After the referendum petition has been filed there is still the question of the efficiency of the popular vote. If the bad laws do not, on the whole, slip through unobserved and unchecked by petition, and if the plan be not used to suspend good laws, it is still necessary that it shall secure an expression of the best public sentiment.

Such data as we have show that the referendum vote will be comparatively small. The ordinary experience with these popular votes, either upon laws or upon constitutional provisions, indicates that the vote cast on such questions is usually much smaller than that cast at the same time for candidates for public offices. In an article by Philip L. Allen in the *Boston Evening Transcript* of May 23, 1906, figures were given showing the popular vote upon various laws or constitutional amendments. In the instances there cited, seventeen in number, the percentage of this vote to the simultaneous vote for public officers varied from seventy-eight to nineteen. In eight instances the vote was less than fifty per cent; in only six instances did it exceed sixty per cent. The vote at the special referendum election in Oregon, June 4, 1906, was considerably higher than this. The vote for governor in that year was 96,715; the vote upon the referendum measures, partly constitutional amendments and partly laws, varied from 83,899 to 63,749. The highest vote noted was that in which the constitutional amendment extending the suffrage to women was defeated.

The experience in Oregon seems to be exceptional. The large vote seems to have been due partly to the novelty of the legislative referendum and partly to the interest aroused in the "equal suffrage" campaign. This single instance has little weight as against the experience of various other states, in which observation shows that in the long run only about one-half of the voters who go to the polls will take the trouble to vote upon laws submitted to them.

These comparisons are made with the number who vote for

public officers. If a comparison be made with the total number of the legal voters of the state, the results are much more striking. In an election which for some reason calls out a large vote, as in a presidential year, the total vote cast may run up to about eighty per cent of the voters. In Wisconsin, for instance, in 1904, the vote for governor was seventy-eight and seven-tenths per cent of the voters. In a year in which the general interest is not so great, as for instance in a so-called "off" year, the vote is regularly much smaller. In Wisconsin, in 1906, the vote for governor was fifty-six per cent of the voters. If only sixty to eighty per cent of the voters come to the polls, and if only about one-half of these vote upon referendum matters, even a unanimous vote in favor of a measure means its adoption by a minority of the legal voters of the state.

This does not necessarily condemn the referendum as a piece of legislative machinery. If those who vote are the most intelligent, if they express the best public opinion, if the influence of the uneducated and the corrupt is substantially eliminated, and if those who do vote upon the question vote with intelligence, we may still, in spite of the smallness of the vote, have conditions under which the referendum may be considered as an efficient aid to the work of the legislature.

Statistical studies as to the relative intelligence of the voters and non-voters upon referendum measures are unfortunately lacking. Perhaps in the future some investigation of this question may be undertaken. It would require an investigator with courage enough to make necessary but perhaps invidious distinctions between various voting precincts, in order to determine whether the vote upon a particular question came from the portions of the community which might be considered the most intelligent. For myself, I should not care to undertake such a task. I may, however, offer certain observations upon this problem from an *a priori* standpoint. There seems to be little reason to expect that the better element will vote any more strongly at a referendum than at a regular election. The "stay-at-home" vote would be the same in both cases. There is no indication that a referendum election tends to bring to the polls those who do not care to vote for the candidates for public offi-

ces. The citizen who does not care to go to the polls and vote for governor would probably not be attracted thither by a chance to vote against a proposed law. If our present political agitation does not stimulate him to activity, there is little hope that additional demands upon his time would move him. It may also be questioned whether those who now neglect their political duties would be a desirable addition to a body of citizens voting upon a proposed law.

Taking those who do their duty in this respect, who regularly vote at the polls, may we assume that the portion of these electors which votes for or against pending laws represents the more intelligent or better element? It is commonly considered that much of the trouble encountered in the working of our present political system is due to the fact that those who ought to know better ignore their political duties. The more intelligent citizen, when he votes at all, is unfortunately too apt to confine his voting to the election of officers, and not infrequently he indicates his choice for only a portion of the offices to be filled. He does not come out to the primaries or to the caucuses. Can we then expect that the better element will constitute, or preponderate in, the body which votes upon pending bills?

What of the other sort of voter, the man who votes at least as often as the law allows, who does as he is told and who furnishes the strength of the machine? Voting on a few laws would offer no terror to him. He could quickly learn where to make the additional marks upon the ballot, and he would remember what was expected of him. There would therefore seem to be little hope that the vote on a law would express any higher public opinion than the vote for the members of the legislature.

In order that the referendum may be a success, it is not only necessary that the voter should be intelligent but that he should vote intelligently. The one does not follow from the other. Intelligent voting demands a thorough knowledge of the subject to be voted on, and it requires a careful study of the proposed bill. In order that one who is to vote upon a pending measure, whether he be a member of the legislature or a legislator under

the referendum, may do so properly, he should have made a thorough examination of the proposed legislation in all its various aspects; he should have at his command the reasons for and against the pending bill; he should be ready and willing to listen to argument both from those who favor and from those who oppose the measure; and he should be in a position, when the time comes for voting, to cast his vote with an entire appreciation of its effect.<sup>1</sup> It may be objected that this is an ideal not reached by the members of our legislatures. In most cases, this is undoubtedly true. It is, however, an ideal which we may place before our legislators and towards which all other legislative reform should tend. It is not an ideal which the voter under the referendum may hope to attain or even approximate. If we admit, as I think we must, that the proper goal of legislation is a better and more intelligent consideration of pending measures, we must acknowledge that the referendum brings us no nearer that goal. In fact, it probably takes us in the other direction. The consideration which the vast majority of voters can give to a measure submitted to them is necessarily hasty and superficial. A careful examination of even a few laws, in the manner which I have indicated as necessary for a proper appreciation of the effect of one's vote, is impossible to practically every person outside of the legislature. The ordinary voter has little or no time to give to the examination of bills which may be presented to him. If he has the time, he seldom has the facilities for obtaining the information which is needed if he is to vote in a proper manner. Comparatively few voters possess the information which is necessary for an intelligent judgment regarding the numerous candidates and issues of our various elections. Until the voters meet these existing obligations imposed by our political system, obligations which cannot be done away with by any system of initiative or referendum, we should hesitate to place new burdens upon them.

The referendum tends to place the emphasis at the wrong end of the legislative work. If we elect good men to the legis-

<sup>1</sup> The most serious efforts to instruct the voters regarding measures submitted to them have been made in Oregon. See G. H. Haynes, "The Education of Voters," in *POLITICAL SCIENCE QUARTERLY*, XXII (1907), 484-497.



latures the need of checks of this kind will largely pass away. The agitation for the referendum has been to a considerable extent due to the failure of the voter properly to perform his duties as an elector. However numerous and complex the causes of this failure may be, one cause which has been very potent is the public indifference to caucuses and elections. If this public indifference continues, we cannot expect that the referendum will be successful. With this indifference removed, the need for the referendum will no longer be so apparent.

An interest in referendum measures can never be a substitute for an interest in elections. The referendum is exceptional. It can never be expected to operate upon more than a few of the many laws enacted. The bulk of our legislation must continue to proceed from our legislatures, unchecked by the referendum. The referendum is then a method of legislation which can affect only a small fraction of the laws, and it depends for its efficiency upon conditions which, if realized, would make its employment largely if not entirely unnecessary.

The initiative, as has already been noted, is the complement of the referendum. It presupposes a failure of the legislature to act or to act properly upon a question where legislative action is needed. The bill proposed by a certain number of voters presents to the legislature evidence of a popular demand for its action. If the legislature conceives that this demand is well founded and that the bill submitted provides a satisfactory method of meeting the demand, it enacts the bill into law. If it does not approve of the demand or of this particular expression of the demand, it rejects the bill, which then goes before the people for a referendum vote.

Against the initiative, as far as its referendum feature is concerned, the same objections may be made as against the referendum when used alone. The popular vote upon a bill proposed by the initiative would be no better and no worse than on a bill passed by the legislature. The initiative would, however, add to the number of bills to be voted on and would thus decrease the attention which the voters could give to each one.

What sort of bills may we expect to see proposed under the initiative? It is not especially important to determine whether

they will be conservative or radical. If the system is worthy of adoption, undesirable bills will be eliminated by the referendum. The question is as to the form of the bills. Is it to be expected that they will be so worded as to accomplish the desired ends?

The importance of a proper form of law is apparently little appreciated. It is easy to say that we will regulate the railroads or the telephone companies. It is harder to determine the extent and details of such regulation. It is even harder so to work out the proper expression of the principles we have adopted that the plan will not miscarry. It was said by Austin, in his *Jurisprudence*:

I will venture to affirm that what is commonly called the *technical* part of legislation is incomparably more difficult than what may be called the *ethical*. In other words, it is far easier to conceive justly what would be useful law, than so to construct that same law that it may accomplish the design of the lawgiver.

The same idea was expressed by a legislator, who told me: "When I first came to the legislature I introduced a bill to prohibit the manufacture of filled cheese. It would have done it, all right, but it would have prevented the manufacture of all other kinds of cheese, too!"

Practically every bill which comes before an American legislature is originally introduced in such form that its passage would be extremely unfortunate. It is probably not too much to say that nearly all bills are, in their original form, crude and unworkable. These bills—and the same would be true of those proposed by initiative petition—are the product of one man or of a small group of men. Even when based on a careful and conscientious study of the subject, they have the shortcomings inevitable from the limitations surrounding their origin. Before they can even approximate perfection, they need the public discussion, the criticism of opposing interests, the suggestions of foes as well as of friends. The process of amendment and re-amendment, which is possible only in a legislature, is necessary to the normal growth of a bill into a law.

Every subject of importance is apt to be covered by several bills. None of these is perfect; each probably has something

of merit. In the legislature, these bills can be considered together; the good portions of each can be accepted and the bad rejected. No such procedure can be followed in the case of initiative measures. If several similar bills are proposed by petition, they cannot be amended and combined. One must be selected and the others rejected, unless, as is entirely possible, more than one act dealing with the same subject is adopted by the popular vote.

The failure of the referendum to afford opportunity for adequate discussion has already been noted. This defect will be felt much more keenly in the case of bills proposed by initiative petition than in the case of bills which pass the legislature in the regular way before they are submitted to the referendum. In the latter case, discussion in the legislature enables that body to bring the bill into something like proper shape. In the former case all the advantages of such discussion, all the suggestions to be derived from the arguments of interests adversely affected by the bill, all the amendments that might be made by parties interested in its passage, are lost. Intelligent legislation is not promoted by a system which treats a bill, in the shape in which it is presented to a legislature, as a finality.

An illustration of the difference between initiative and regular legislation is found in the "anti-pass" law of the state of Oregon. In 1906 a bill covering this subject was submitted by initiative petition and was adopted by a vote of 57,281 for and 16,799 against. This bill was so poorly worded that, upon a literal reading, it forbade a railroad from issuing passes to its own employees but allowed it to issue them to the employees of other roads. Fortunately the act was not effective, because of the absence of an enacting clause. The legislature of 1907 passed a general railroad law in which the subject of passes was covered in a proper and intelligible manner.

The failure of the initiative to afford opportunity for amendment is met to some extent in the system adopted in Maine and pending in North Dakota. In these states, the legislature may reject the initiative bill and propose a substitute. In such a case both bills are submitted to popular vote, and the voters are called upon to choose between them. This device enables the legisla-

ture to correct faults in the proposed legislation. The substitute will undoubtedly be far superior to the initiative bill. The existence of the two bills will, however, complicate greatly the work of the people. The voting upon a single bill is difficult enough; the choosing between competing bills will be much more difficult.

The most that can be claimed for the initiative is that it forces the legislature to act. The laws resulting from this coercion will in most cases be crude and unscientific. From the point of view of the improvement of our legislation in the matter of form, they will mark a long step backward. Unless the force of public opinion is insufficient to bring about needed legislation through the regular channels, the initiative cannot be considered desirable.

No statistics are available, nor is it easy to conceive how statistics could be secured, showing operation of public opinion. I believe, however, that wherever there exists in favor of a measure a public opinion strong enough to ensure the preparation of a bill, to secure the necessary signatures to an initiative petition and to effect the adoption of the bill by popular vote, the same result will be obtained, and on the average more quickly, through the regular legislative processes. The recent laws for the regulation of railways, the laws affecting public-service corporations in New York and Wisconsin, the restrictions imposed on insurance companies, are among the many evidences of the power of public opinion. Indeed, some think that the passage of two-cent-fare laws has shown that the legislatures are too responsive to public opinion.

The members of the legislature are in a very direct sense responsible to the people. It is true that the "boss" has frequently dictated nominations and controlled elections. Under such circumstances the legislator may care little about public opinion. This situation is, I think, not the result of any defects in our legislative system but of public indifference. When the public takes an interest in the work of the legislature, it will take an interest in the persons nominated and elected to the legislature. When this latter interest is manifest, the members will respond to the wishes of their constituents. Until such an interest is taken, the initiative and the referendum will be useless.

After the initiative bill becomes a law by popular ratification, it occupies a somewhat peculiar position. It is, under all the plans proposed or in operation, subject to amendment or repeal like any other act. It would, of course, be possible to give such a law a higher status by providing that it should be repealed or altered only by popular vote. The wisdom of such a solution may be doubted. Legislation, and particularly the advanced legislation which would probably result from the initiative, is experimental. It is apt to need frequent adjustment to changing conditions or to unforeseen exigencies revealed in its practical operation. A plan which would prevent the amendment of an initiative law by the legislature would deprive our laws of a very necessary flexibility. On the other hand, if authority is left in the legislatures to amend or to repeal acts of popular legislation, many of the alleged merits of the initiative are lost. If the legislature needs to be coerced into enacting a law, if it acts only under compulsion, it may take the first opportunity to repeal or at least emasculate the law which has been forced upon it. This may be considered an overdrawn picture, but it must be remembered that the initiative is based upon the assumption that the legislature is not to be trusted.

Such a legislature, however, is more likely to pursue a different course. As we have already seen, the law passed by the aid of the initiative and referendum is apt to be crude in form. If left unaltered it tends, even if it be not absolutely unworkable, to discredit the perhaps excellent principle embodied in it. The hostile legislature then needs only to let it alone. This is very easy. The plea that the law is not to be amended by the legislature, that the sovereign people have spoken and that their mandate must be obeyed literally, will often be heard. This specious plea is one which a legislature will be quick to use, if it desires to discredit a good principle embodied in a bad law.

One other and very fundamental objection may be made both to the referendum and to the initiative. They tend to weaken the sense of legislative responsibility. With the referendum the legislator does not vote for or against a bill, he votes to give the people an opportunity to vote on it. He does not need to ex-

press his own opinion. He may say that his views are immaterial, that even if he is opposed to a bill it would be unjust to refuse to allow the people a chance to express themselves. This feeling will affect his attitude towards all bills, irrespective of the question whether they are actually to be subjected to a referendum vote. Every bill may be thus subjected, and if no petition is filed concerning a particular measure, the people may be considered to have ratified it. They have had the opportunity to act, and if they remain quiescent the responsibility for the bill rests with them, not with the legislature.

The initiative would also shift responsibility. If new laws are needed, they may be submitted by the initiative petition. If the legislators do not propose the measures needed, they are not to be blamed. The failure of the people to use their initiative indicates that they do not desire action upon the matter.

The diffusion of responsibility which would result from shifting the burden of legislative reform from the few to the many is in direct opposition to the teachings of political experience. The way to get good government is not to scatter the responsibility among a number, so that each can dodge the blame if the work goes ill or claim the credit if it goes well. The approved way is to make each responsible for his appointed task and to hold him rigidly to that responsibility.

Progress in legislative reform is to be attained, I believe, not through any radical change in our system of representative government, but rather through the selection of better men as members of our legislatures, through improvement of the machinery of legislation, so that the members will know what they are doing, and through a diminished demand for prompt legislative action in every social emergency, real or fanciful. If legislation can be confined to the matters in which it is really required, our legislators will have time to do their work in workmanlike fashion.

JOHN BELL SANBORN.

MADISON, WISCONSIN.

## INSTRUCTION IN PUBLIC BUSINESS

**A**CADEMIC orators, reform agitators, religious preachers and teachers and other prompters of civic conscience are constantly urging young men to "go into politics." Because this appeal stirs profound emotions of patriotism and religion, it is always effective for the moment, particularly with the college man whose knowledge of history and literature, science and athletics, makes him susceptible to the argument that personalities enriched by college culture owe a special duty to the state. To many college men success in politics means a place among the governors and justices whose portraits line the capitol's rotunda, or the winning of oratorical triumphs or strategic victories on the stump or in legislative halls, or making the winning play at critical moments in humanity's struggle for self-government. This alluring picture draws many into the vortex of practical politics. Others enter with less definite anticipation, from love of struggle, the craving for excitement or the desire for diversion. Others, again, sincerely feel in duty bound to go into politics, because they regard themselves and are regarded by their communities as trustees of culture, knowledge, honesty, high motive, and of that "true conception of the spirit of democracy," which the head master of Groton recently defined as working for, rather than working with or through, less favored citizens. If the college man resists the appeal to go into politics, he defends his apparent neglect on the ground that in politics honesty and culture are at a discount. He finds compromise of principles distasteful and the legalized compensation too slight and too precarious. Moreover the public requires from the college man too long a period of apprenticeship before it calls on him to lead, and it is as fickle in continuing its favors as it is chary of granting them.

Academic instruction has been influenced by the college man's picture of politics and by his reasoning about politics. History, like football, is more interesting when the play is "open." Courses in history and in politics have naturally

emphasized leading personalities and dramatic issues, and deductions as to the college man's duty have been drawn from his alleged superiority, especially from his trusteeship of culture.

The after-college relation to politics has been similarly influenced by the tradition and the teachings that regard government as a sequence of personalities rather than a sequence of acts. Personal considerations and the influence of other personalities have kept the great majority of college men out of politics and have rendered the actions of those who enter politics singularly like the actions of less favored men whose only school has been that of machine politics. So desultory and so ineffective have been the attempts of college men to organize their superiority and their consciousness of extra obligation, that one of their leaders ironically suggested a precaution taken by certain mediæval law-makers on the coast of France: "Any one who wishes to pilot a ship into port may do so if employed by shippers; but any pilot who fails to guide his charge safely must forfeit his life." Few college men will deny to-day that American municipalities have received infinitely less help from college men and college instruction than the needs of the city and the opportunities of college and university make desirable. Political coöperation requires team work, not all-star aggregations. The college man's culture has not been negotiable. The intelligence which he has failed to bring and which alone is immediately serviceable in politics is intelligent comprehension of community needs and governmental acts.

The Bureau of Municipal Research has gladly accepted an invitation to give at Columbia University a course in Public Business, because it wishes to test the effect upon college students of emphasizing acts rather than personalities, administration rather than legislation, needs rather than theories and results rather than political speculation. New York City has only one mayor, but it has 70,000 employees. Election comes once a year, administration consists of a million daily acts. To try to understand public business without appreciating the continuity of social needs and of public acts, to regard government as a thing set going once a year or once every few years, is to ignore the real meaning of the old saying: "The king is dead; long live the king."



The time seems ripe for adding to the college curriculum courses in governmental acts and methods, for in all parts of the country citizens are asking for men who can put into operation the ideals of college men. Moreover, ability to do is recognized as never before, and promises to become a close rival to ability to talk about what ought to be done. Efficiency is beginning to win prompt promotion in the national government. Men are working their way into cabinet positions because of ability to see, to understand and to guide acts, not because of college connections, travel or good fellowship. In the consular service, the State Department puts a premium on men who can do definite important acts or cause them to be done, and who can acquire and record definite information about things and acts. The defects of the civil service are due not to the application of tests to determine efficiency but to failure to apply relevant tests and to provide for a continuous comparison of requirement with accomplishment in order to prove continuing fitness. Even in the selection of a president stress is laid to-day on the fact that one candidate can point to efficient administration of many posts, while another, as he himself laments, has not been given opportunity to prove his ability to cope with conditions and to attain results.

If academic instruction is to increase the fitness of college men for public service it must exchange the injunction, "go into politics," for "participate in government." Government is a matter of conditions, methods, acts and results, not a mere matter of theories. Conditions are objective; they can be seen, analyzed, understood, directed, changed. To adjust and control conditions requires knowledge of their component parts and interrelations. This knowledge requires that the college man shall learn: (1) how to study community needs; (2) how to study official acts; (3) how to devise and manage the governmental machinery that is necessary to give effect to the wishes of the community; and (4) how to frame official reports that shall make this machinery intelligible and show in what measure the desired results are being attained. None of these essentials to knowledge can be found in existing texts, because mechanisms do not do what they are designed to do, nor do

records of work done and money spent tell a legible or complete story. Extra-constitutional agencies thwart or pervert constitutional provisions. Descriptions of charters and municipal systems mislead because they do not mirror the actual conduct of official business.

As to the results that may be attained by such university lectures as it is preparing to deliver, the Bureau of Municipal Research confesses to no little optimism, because its own experience, as a non-official fact gatherer, in securing the coöperation of college graduates entrusted with large responsibilities in government, in journalism and in philanthropy seems to prove that individuals and communities will give attention to government in direct proportion as they see clearly the needs, the methods and the results of community coöperation.<sup>1</sup> The Bureau of Municipal Research was organized January 1, 1906, as the Bureau of City Betterment, and was incorporated May 3, 1907, under its present title, with an executive staff of three. From the outset Mr. Henry Bruère has been its director. Its purposes are defined in its charter as follows:

To promote efficient and economical municipal government; to promote the adoption of scientific methods of accounting and of reporting the details of municipal business with a view to facilitating the work of public officials; to secure constructive publicity in matters pertaining to municipal problems; to collect, to classify, to analyze, to correlate, to interpret and to publish facts as to the administration of municipal government.

It has at present (October, 1908), a staff of forty-five, to whose training a score of colleges and universities have contributed; and the work is carried on under the general guidance of a board of trustees composed of seven men who for years have been identified, as students and workers, with local and national efforts to solve municipal problems.

<sup>1</sup> The Bureau is located at 261 Broadway, New York City, and will be pleased to receive suggestions from those in charge of university instruction in the social sciences as to advisable modifications of the tentative outline of lectures which is printed at the close of this article. It will also welcome information as to localities in special need of municipal research.

It may be of interest to reproduce a circular recently sent out by a group of Philadelphia business men, all college graduates, for the purpose of raising funds for research work in that city—work which, it is hoped, will aid in educating the entire community in the problems of government:

1. Money enough is being spent by American cities to secure efficient government.

2. Inefficient government causes more corruption, sickness, dependency and delinquency than any other anti-social factor.

3. Inefficiency of government is primarily due to badness of methods rather than to badness of men.

4. Efforts to correct misgovernment have too frequently failed, or have had only passing success, because men not methods were changed or attacked.

5. Continuing knowledge of acts is infinitely more effective than election excitement.

6. Public interest in so-called good government must be sustained, not by scandal regarding personalities, but by reiteration of facts as to acts committed and community needs not met.

7. City employees and city funds should work with such methods that they will themselves reiterate truth regarding work done and money spent, and work not done that ought to be done.

8. The Bureau of Municipal Research (New York) was organized in 1906 on the foregoing principles, and has accomplished noteworthy results by emphasizing methods not men, acts not personalities.

9. Officials and press have coöperated with the highly trained men of the Bureau of Municipal Research in committing city officials to:

A city budget that tells clearly for what purposes money is voted; a resolution making impossible transfers from purposes mentioned in the budget to other purposes, without special authority; uniform accounting for all departments; adequate service records to describe work done when it is done, with periodic summaries; reorganization from top to bottom of the department of finance so that expenditures, revenues and service rendered shall be currently audited and controlled; removal of one borough president; investigation by the commissioners of accounts that may cause the removal of another borough president; initiative by private individuals leading to the resignation of a third borough president; important changes of method in all boroughs; reorganization of the

commissioners of accounts office, previously a whitewashing body, until it is equipped to provide efficient continuing audit and examination of all departments; public transactions being forced into the light, "good motives" are strengthened and "bad motives" are weakened, thus making the informed sentiment of even the minority effective in preventing inefficiency and corruption.

10. Other cities are asking the Bureau of Municipal Research to coöperate in making similar efforts to improve their methods of government. A permanent foundation is needed for training men and setting up scientific standards for coöperation of citizens and officials.

The Bureau has not attempted in any of its publications to summarize all of its activities and investigations. In its reports, however, it tries not only to state clearly the results of its inquiries, but to show, step by step, the methods used in arriving at those results. It has had in mind, from the first, the probable use of its reports by university lecturers and students, by special students working in public libraries, and more particularly by officials and civic leaders in other cities who desire to study their own municipal governments and to adopt methods by which they may currently inform themselves as to local needs. The complete list of the Bureau's reports has not hitherto been published except on the back covers of the reports themselves, which of course have had a small circulation among a special class. It is thought desirable, therefore, to subjoin a list of these publications, including those that are still in preparation, and to add a brief statement of the results of the studies described.<sup>1</sup>

<sup>1</sup>The Bureau cannot offer to send its reports free to instructors or even to libraries. It is glad, however, to send them to all applicants at cost plus postage.

#### REPORTS, JANUARY, 1906, TO SEPTEMBER, 1908.

**Some Phases of the Work of the Department of Street Cleaning.** This report pointed out that defective organization, not corruption, was the real cause of the troubles encountered.

**City Owned Houses.** This led to the appointment of a commission to devise a method of abolishing and preventing the recurrence of the unsanitary and illegal conditions found in tenements owned by the city.

**Salary Increases not Provided for in Budget.** This led to the appointment of a commission to standardize salaries and grades.

During the past autumn, the Bureau of Municipal Research organized, in New York City, a public Budget Exhibit, which attracted much attention not only in New York but throughout the United States. Its purpose was to illustrate the methods pursued by the Bureau, and to bring home to the taxpayers their individual responsibility for the conduct of municipal government. The Exhibit was located in lower Broadway, and was kept open from October 5 to November 2. Daily meetings were held with an average attendance of over 2000. Numerous civic bodies contributed photographs and charts, and several city departments participated by exhibits and by noonday speeches. The last address was given by Governor Hughes, on "The Right to Efficient Government." The intelligent interest taken by taxpayers and the use made by classes in civics from colleges and high schools, as well as by ministers and editors, of the Bureau's graphic presentation of budget alternatives exceeded all anticipations.

If university and college teachers and students become inter-

*Inefficiency of Inspection of Combustibles.* This led to the dismissal of the superintendent.

*The City of New York, the Street Railroad Companies and a Million and a Half Dollars.* This led to the establishment of a special bureau in the city's law department to take up and press the claims of the city against street railway companies for paving done at the public's expense between the companies' rails.

*How Manhattan is Governed.* This led to an investigation by the commissioners of accounts, upon whose findings the City Club submitted to Governor Hughes charges against the borough president and demanded his removal. The president was removed for gross inefficiency, "albeit no proof exists of personal dishonesty." The Board of Aldermen promptly reelected him. The legality of their action is now before the courts. From the point of view of the Bureau it is as important to have doubtful points of law interpreted as to have inefficient officials removed.

*Analysis of the Salary Expenditure of the Department of Health of the City of New York for the Year 1906.* This led to the adoption by the Board of Aldermen and the Board of Estimate and Apportionment of the principle that future budgets shall clearly indicate for what specific purposes moneys appropriated are to be expended, and further, that moneys may not be diverted to other purposes than those advertised, without permission from the Board of Estimate and Apportionment.

*Making a Municipal Budget: Functional Accounts and Records for the Department of Health.* This led to important changes in the administrative methods of the Health Department and to entirely new forms of record and report, intended to emphasize work not done and needs not met.

*A Department of Municipal Audit and Examination: Report on the Office of Com-*

ested in the movement, it will secure the permanent support of coming generations of college-bred men. With the aid of the universities and colleges, and of their graduates, it should be possible to establish such an endowment of municipal research as to ensure the maintenance of the highest standards of governmental efficiency. With this end in view, the Bureau looks forward with high anticipation to the coming conferences between its officers and the students of Columbia University. It hopes to learn how an endowed bureau of municipal research may most efficiently coöperate with universities and colleges in preparing college men for the double rôle of efficient citizen and efficient leader. Municipal research will need scores, probably hundreds of trained men within a few years. The Bureau is anxious to learn how its experience may best be recorded for investigators and teachers, so that they can use the results for lectures and for class-room and reference work. It is in the hope that advice and suggestions may be elicited, that the following syllabus of lectures is appended.

missioners of Accounts. As a result of this report the office was reorganized by the commissioner, with the approval of the mayor, and has since become one of the chief educational agencies of the city.

The Park Question, Part II: Critical Study and Constructive Suggestions Pertaining to Revenue and Deposits of the Department of Parks, Manhattan and Richmond. This study, recently published, shows how revenue not collected is intimately related to unnecessary taxes and concealed inefficiency.

Memorandum of Matters relating to New York City's Debt that Suggest the Necessity either for Judicial Ruling or for Legislation. Just published: a valuable handbook for the study of other cities.

A Bureau of Child Hygiene: Coöperative Studies and Experiments by the Department of Health of the City of New York and the Bureau of Municipal Research. Foreword by Hon. Thomas Darlington, Commissioner of Health. This has led to entire reorganization of work for the physical welfare of school children and summer care of babies.

#### REPORTS IN PROGRESS, OCTOBER, 1908

The Park Question, Part I: Critical Study and Constructive Suggestions pertaining to Administrative and Accounting Methods of the Department of Parks, Manhattan and Richmond.

Control of Water Revenues.

Administration of the Department of Water Supply, Gas and Electricity.

Real Estate Transactions, Department of Finance.

Tenement House Administration.

Bureau of Supplies and Repairs, Department of Police.

THE ADMINISTRATION OF PUBLIC BUSINESS<sup>1</sup>

## PART I: PRINCIPLES OF PUBLIC ADMINISTRATION

- I. The problem of effective administration is the problem of effective control.
  - (a) A general statement of the problem of administration.
  - (b) The meaning of control.
  - (c) Elements common to both public and private business.
  - (d) Points of difference.
- II. Forms of control provided by corporate organization.
  - (a) Forms of electoral control: petition, ballot, initiative, referendum, recall, citizen inquiry.
  - (b) Forms of representative control: legislative, financial, inquisitorial.
  - (c) Forms of administrative control: appointment, removal, administrative direction.
- III. The exercise of effective control depends on intelligence.
  - (a) Democratic government is essentially one of voluntary coöperation.
  - (b) Intelligent coöperation is possible only when citizenship is informed.
  - (c) The exercise of intelligent judgment concerning any concrete problem presumes exact knowledge.
- IV. The function and possibilities of electoral control and the information necessary to make it effective.
  - (a) What the citizen may do when informed.
  - (b) What information is necessary to make petition effective.
  - (c) What information is necessary to make the ballot effective.
  - (d) What information is necessary to make the initiative effective.
  - (e) What information is necessary to make the referendum effective.
  - (f) What information is necessary to make the recall effective.
  - (g) What records are necessary to make citizen inquiry effective.
- V. The function and possibilities of representative control and the information necessary to make it effective.
  - (a) What representatives may do, if informed.

<sup>1</sup> Twenty-eight lectures, to be given at Columbia University, in the spring of 1909, by Henry Bruère, Director, Frederick A. Cleveland, Technical Director, and William H. Allen, Secretary of the Bureau of Municipal Research. Part I is to be given by Mr. Cleveland; Part II, by Mr. Allen; Part III, by Mr. Bruère.

- (b) What information is necessary to make the legislative powers effective.
- (c) What information is necessary to make the financial powers of representatives effective.
- (d) What records are necessary to make inquisitorial powers effective.
- (e) Who is responsible if such information is not available.

VI. The function and possibilities of administrative control and the information necessary to make it effective.

- (a) What administrative officers may do if informed.
- (b) What information is necessary to make the power of appointment effective.
- (c) What information is necessary to make the power of suspension and removal effective.
- (d) What information is necessary to make official direction effective.
- (e) Who is responsible if such information is not available.

VII. The means of obtaining the information required for purposes of control.

- (a) The function of inspection.
- (b) The function of accounting.
- (c) The function of audit.
- (d) The development and use of operative service records.
- (e) The development and use of reports.

VIII. Technique and mechanical devices to secure efficiency, economy and directness of administrative control.

PART II: SPECIAL AGENCIES, PUBLIC AND PRIVATE, DEVELOPED TO PROMOTE THE APPLICATION OF BUSINESS PRINCIPLES TO PUBLIC ADMINISTRATION

I. National public agencies.

- (a) The Keep Commission.
- (b) The Association of Treasury Department Employees.
- (c) The National Census Bureau.
- (d) The League of American Municipalities.
- (e) The National Association of Comptrollers.

II. National private agencies.

- (a) The Bureau of Municipal Research.
- (b) The National Conference of Charities and Corrections.
- (c) The National Municipal League.
- (d) The National Prison Congress.



## III. State agencies, public and private.

- (a) To promote uniform accounts.
- (b) Legislative commissions.
- (c) Public-service commissions.
- (d) Private agencies.

## IV. Public municipal agencies.

- (a) Boston's finance commission.
- (b) New York's commissioners of accounts.
- (c) Municipal bureaus of statistics.

## V. Non-official influence upon municipal business.

- (a) Agencies attempting to influence public policy.
  - (1) Political parties.
  - (2) Taxpayers' associations.
  - (3) Boards of trade.
  - (4) Charitable and religious bodies, including social settlements, child-labor committees, *etc.*
  - (5) County, state and national conferences of non-official bodies.
  - (6) County, state and national conferences of municipal officials.
  - (7) The press.
- (b) Dangers when volunteer agencies are uninformed.
- (c) Importance of records and reports for informing non-official bodies.
- (d) Advantage of records and reports that show whether non-official bodies urge or oppose acts that further or injure the interests of the whole community.

## VI. Significance of citizens' rights to inspect all public records.

- (a) History of this right.
- (b) Its legal limitations.
- (c) Its educational and political possibilities.
- (d) Its relation to adequate business methods.
- (e) The responsibilities which it imposes.

PART III. URGENT MUNICIPAL PROBLEMS TO BE SOLVED BY THE  
APPLICATION OF BUSINESS METHODS

## I. Shall business be centralized or decentralized?

- (a) Central administration of contracts and purchases.
  - (1) Purchasing agency.
  - (2) Real estate bureau.
  - (3) Inspection.

- (4) Bureau of standards.
  - (5) Price current bureau.
  - (6) Contract bureau.
  - (7) Depository of supplies.
  - (b) Central administration of fiscal and financial relations.
    - (1) Revenue collections, licenses, concessions.
    - (2) Disbursements.
  - (c) Operative functions not usually centralized.
    - (1) Construction.
    - (2) Supervision of public buildings.
    - (3) Control of streets.
    - (4) Repair shops.
    - (5) Hospital service.
    - (6) School administration.
  - (d) Centralization of professional services.
    - (1) Legal.
    - (2) Medical.
    - (3) Chemical.
    - (4) Engineering.
    - (5) Accounting and auditing control, as through New York City's commissioners of accounts.
  - (e) Bureau of statistics.
- II. Municipal industry.
- (a) Conditions necessary to success.
  - (b) Facts essential to truthful statement of results.
  - (c) Dangers peculiar to municipal corporations.
- III. Constructive and protective policies that depend upon efficient accounting of public debt.
- (a) Debt limit.
  - (b) Sinking fund.
  - (c) Use of long term bonds.
  - (d) Use of short term loans.
  - (e) Interest of bondholders in business methods.
  - (f) Registration of municipal bonds.
- IV. Charter making in its relation to municipal business.
- (a) Function of charter.
  - (b) Fallacy of basing each charter on other charters.
  - (c) Importance of basing each charter on community needs.
  - (d) Efficient business methods show community needs.
  - (e) How functions, needs and organization may be charted.
  - (f) Superiority of the simple charter, defining powers, to be sup-

plemented by the municipal code showing how powers are to be exercised.

- (g) Minimum provisions regarding business methods.
- (h) Recent tendencies.
  - (1) Recognition of expert service.
  - (2) Substitution of small executive commissions for large legislative-executive bodies.
  - (3) Recall, referendum, initiative.
  - (4) Long terms for leading officials.
  - (5) Increase in local autonomy.
- (i) Danger of exaggerating possibility of efficient public business without intelligence on the part of the public as to methods, acts, results and needs.

V. Civil service.

- (a) Obstructions to efficiency.
- (b) Modifications necessary.
- (c) Importance of service records to establish evidence of inefficiency.

VI. Making an annual budget.

- (a) To enable the community to determine governmental policies.
- (b) To enable fiscal authorities to control finances.
- (c) Importance of classifying appropriations according to operative functions.
- (d) Importance of segregating appropriations according to operative functions.
- (e) Importance of publicity of requested transfer from one budget appropriation to another.
- (f) Importance of public hearing of citizens on final budget in addition to public hearings upon budget estimates.

As has been said already, this outline of a subject not previously treated, or at least not treated from a similar point of view, in academic instruction in the United States, is necessarily tentative, and the Bureau will welcome suggestions for its improvement.

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## FEDERAL QUARANTINE LAWS

**A**MONG the contributions which America has made to the science of jurisprudence is the idea of a dual or federal organization of government, in which both the general and the local governments act directly on the individual. It has embodied this idea in an actual system, and, though the workings of this system have not always been above criticism, it has in many ways served a useful purpose. Had the theory of the indivisibility of sovereignty possessed supreme sway, it is practically certain that no general government of substantial powers could have been created; for in the then prevalent confusion of sovereignty with government, such a government would have seemed sovereign, and so great was the prejudice against sovereignty at a distance that the people would not have consented to the creation of a governmental system in which the states themselves could not be regarded as sharers. They believed, and believed thoroughly, in government "close home." And hence, in what they conceived to be their most vital interests, they insisted that the major portion of political power be left to the local governments.

It is therefore not surprising that, at the beginning, the states should have believed and acted upon the belief that the protection of public health was entrusted to them; that whatever quarantine laws there might be must be state laws. The steps in the movement away from this position constitute a very interesting chapter in the evolution of our ideas of constitutional interpretation. They mark a slowly changing conception of the relative importance which should be attached to theory as compared with expediency in determining the spheres of federal and state activity. Theoretical notions have gradually been forced to give way before the logic of facts.

The development of federal control over quarantine has been very gradual. Briefly stated, the stages in the process have been as follows: (1) exclusive state control; (2) moral support by

the federal government; (3) appropriations from the national treasury in aid of state quarantine regulations; (4) a federal system of quarantine as applied to foreign commerce; (5) extension of the federal quarantine system to include interstate commerce.

Until 1796 there was no federal quarantine law. Whatever legislation there was upon the subject proceeded from the states. An epidemic of yellow fever in that year proved that the quarantine regulations provided by the states were grossly inadequate. The realization of this fact created an appreciable sentiment in favor of a national system. In response to this sentiment, a bill was introduced giving the president power to declare and enforce quarantine regulations of foreign commerce. This measure was opposed upon two grounds: (1) that it conferred upon the president powers of legislation; (2) that it interfered with the police power of the states. The first of these objections has good ground upon which to rest; the second has not. The Supreme Court of the United States has since had an opportunity to rule upon this very question. In the case of *Morgan's Railroad and Steamship Company v. Louisiana*,<sup>1</sup> the court said:

Whenever Congress shall undertake to provide for the commercial cities of the United States a general system of quarantine, or shall confide the details of such a system to a national board of health, or to local boards, as may be found expedient, all state laws upon the subject will be abrogated, at least so far as the two are inconsistent.

That the police power of the states may not stand in the way of federal regulation of interstate or foreign commerce has been decided in the case of *Gibbons v. Ogden*<sup>2</sup> and in that of *Henderson v. The Mayor*.<sup>3</sup> In 1796, however, these arguments aroused sufficient prejudice against the measure to bring about its defeat by a vote of 46 to 23. It was, however, passed in an emasculated form. As passed, it simply gave the president power to proffer assistance to the states in enforcing their quarantine laws, if they had any, but it made no appropriation

<sup>1</sup> 118 U. S. 455.

<sup>2</sup> 9 Wheaton, 210.

<sup>3</sup> 92 U. S. 272.

to enable the president to render assistance, in case he should see fit to offer it and some state should condescend to accept the offer. This sham provision was, very properly, short-lived.

In 1799 the above law was repealed, and a far more effective measure was put in its stead. This statute, which is still a part of our quarantine laws, provides that the customs officers and the masters and crews of revenue cutters shall conform to the quarantine and health laws of any state and shall aid in their execution as directed by the secretary of the Treasury. It provides for the unloading of vessels in case the port of entry for which they are cleared is quarantined; for the erection of suitable warehouses in which the merchandise from vessels subject to quarantine may be deposited; for the removal of goods from such warehouses under direction of the secretary of the Treasury; for the removal of revenue officers from a port of entry in which there is a contagious or epidemic disease to some more convenient place within, or as near as may be to, such collection district, public notice of such removal to be given by the secretary of the Treasury or the first comptroller; for the removal, under direction of the president, of public offices from the capital, in case of the prevalence of a contagious or epidemic disease therein; and for the adjournment of the Supreme Court, under like circumstances, under direction of the chief justice. Like power is given to judges of district courts under like circumstances.<sup>1</sup>

<sup>1</sup> Statutes at Large, 619. An Act respecting Quarantine and Health Laws. The text of this act is as follows:

"Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the quarantines and other restraints, which shall be required and established by the health laws of any state, or pursuant thereto, respecting any vessels arriving in, or bound to, any port or district thereof, whether from a foreign port or place, or from another district of the United States, shall be duly observed by the collectors and all other officers of the revenue of the United States, appointed and employed for the several collection districts of such state respectively, and by the masters and crews of the several revenue cutters, and by the military officers who shall command in any fort or station upon the sea-coast; and all such officers of the United States shall be, and they hereby are, authorized and required, faithfully to aid in the execution of such quarantines and health laws, according to their respective powers and precincts, and as they shall be directed from time to time by the Secretary of the Treasury of the United States. And the said Secretary shall be, and he is hereby authorized, when a conformity to such quarantines and

This act, which aims to supplement the quarantine regulations of the states, is all the federal legislation we have on the subject down to 1866. The legislation of that year marks a substantial advance; for, in that year, Congress made the first appropriation for the purpose of aiding in the enforcement of

health laws shall require it, and in respect to vessels which shall be subject thereto, to prolong the terms limited for the entry of the same, and the report or entry of their cargoes, and to vary or dispense with any other regulations applicable to such reports or entries: *Provided*, that nothing herein shall enable any state to collect a duty of tonnage or impost without the consent of the Congress of the United States thereto: *And provided*, that no part of the cargo of any vessel shall, in any case, be taken out or unladen therefrom, otherwise than as by law is allowed, or according to the regulations hereinafter established.

"Section 2. *And be it further enacted*, That when, by the health laws of any state, or by the regulations which shall be made pursuant thereto, any vessel arriving within a collection district of such state, shall be prohibited from coming to the port of entry or delivery by law established for such district, and it shall be required or permitted by such health laws, that the cargo of such vessel shall or may be unladen at some other place within or near to such district, the collector authorized therein, after due report to him of the whole of such cargo, may grant his especial warrant or permit for the unloading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws shall permit, and upon the conditions and restrictions which shall be directed by the Secretary of the Treasury, or which such collector may, for the time, reasonably judge expedient for the security of the public revenue: *Provided*, that in every such case, all the articles of the cargo so to be unladen, shall be deposited at the risk of the parties concerned therein, in such public or other warehouses or inclosures, as the collector shall designate, there to remain under the joint custody of such collector and of the owner or owners, or master, or other person having charge of such vessel, until the same shall be entirely unladen or discharged; and until the goods, wares or merchandise which shall be so deposited may be safely removed, without contravening such health laws; and when such removal may be allowed, the collector having charge of such goods, wares or merchandise, may grant permits to the respective owners or consignees, their factors or agents, to receive all goods, wares or merchandise, which shall be entered, and whereof the duties accruing shall be paid or secured, according to law, upon the payment by them of a reasonable rate of storage; which shall be fixed by the Secretary of the Treasury for all public warehouses and enclosures.

"Section 3. *And be it further enacted*, That there shall be purchased or erected, under the orders of the President of the United States, suitable warehouses, with wharves and inclosures, where goods and merchandise may be unladen and deposited, from any vessel which shall be subject to a quarantine, or other restraint, pursuant to the health laws of any state as aforesaid, at such convenient place or places therein, as the safety of the public revenue, and the observance of such health laws may require.

"Section 4. *And be it further enacted*, That when, by the prevalence of any contagious or epidemical disease, in or near the place by law established, as the port of

quarantine laws. On May 26, 1866, the Senate and House passed the following joint resolution respecting quarantine and health laws:

Be it resolved by the Senate and House of Representatives in Congress assembled, That the Secretary of the Treasury be, and he hereby

entry for any collection district, it shall become dangerous or inconvenient for the collector and the other officers of the revenue employed therein, to continue the discharge of their respective offices at such port, the Secretary, or in his absence, the comptroller of the treasury of the United States, may direct and authorize the removal of the collector, and the other officers employed in his department, from such port, to any other more convenient place, within, or as near as may be to such collection district, where such collector and officers may exercise the same authorities, and shall be liable to the same duties, according to existing circumstances, as in such lawful port or district; and of such removal, public notice shall be given as soon as may be.

"Section 5. *And be it further enacted*, That it shall be lawful for the judge of any district court of the United States, within whose district any contagious or epidemical disease shall at any time prevail, so as in his opinion to endanger the life or lives of any person or persons confined in the prison of such district, . . . to cause the person or persons confined as aforesaid, to be removed to the next adjacent prison where such disease does not prevail, there to be confined, until he, she or they may safely be removed back to the place of their first confinement; which removals shall be at the expense of the United States.

"Section 6. *And be it further enacted*, That in case of the prevalence of a contagious or epidemical disease at the seat of government, it shall be lawful for the President of the United States to permit and direct the removal of any or all the public offices to such other place or places as, in his discretion, shall be deemed most safe and convenient for conducting the public business.

"Section 7. *And be it further enacted*, That whenever, in the opinion of the chief justice, or in case of his death, or inability, of the senior associate justice of the supreme court of the United States, a contagious sickness shall render it hazardous to hold the next stated session of the said court at the seat of government, it shall be lawful for the chief or such associate justice, to issue his order to the marshal of the district within which the supreme court is by law to be holden, directing him to adjourn the said session of the said court to such other place within the same, or an adjoining district, as he may deem convenient; and the said marshal shall thereupon adjourn the said court, by making publication thereof in one or more public papers printed at the place by law appointed for holding the same, from the time he shall receive such order, until the time by law prescribed for commencing the said session. And the district judges shall, respectively, under the same circumstances, have the same power, by the same means, to direct adjournments of the district and circuit courts within their several districts, to some convenient place within the same respectively.

"Section 8. *And be it further enacted*, That the act, intituled 'An act relative to quarantine', passed in the first session of the fourth Congress of the United States, shall be, and the same is hereby repealed.

"Approved, February 25, 1799."



is, authorized to make and carry into effect such orders and regulations of quarantine as, in his opinion, may be deemed necessary and proper, in aid of State or municipal authorities, to guard against the introduction of cholera into the United States; and the Secretary of the Treasury is further authorized to direct the revenue officers and officers commanding revenue cutters to aid in the execution of such quarantine, and also in the execution of the health laws of the States respectively in such manner as may to him seem necessary. And such an amount of money as may be necessary to carry into effect this joint resolution is hereby appropriated out of any money in the treasury not otherwise appropriated; provided the authority hereby granted shall expire on the first Monday of January, anno Domini eighteen hundred and sixty-seven.<sup>1</sup>

The work to be done was, however, still strictly supplementary; for though the secretary of the Treasury was authorized to coöperate with the states in enforcing their quarantine laws, he had no authority to "add to, modify or supersede any state regulation." The general policy to be pursued was therefore still left entirely in the hands of the states, each of which feared to incur any very great expense lest part of its expenditure should inure to the benefit of its neighbors.

Notwithstanding the manifest advantages of control by a central power which could deal, according to its own plan, with the whole disease area, it is doubtful if the federal government would have been authorized to do anything more than use its "good offices" in aiding state regulation, had not the recurring epidemics of yellow fever in the sixties, seventies and eighties created a popular sentiment which forced Congress to do something more than "second the motion."

Even under pressure, Congress moved very cautiously. Apprehensive of overrating the strength of the demand for untrammelled federal action in the interest of the public health, it passed a joint resolution in June, 1870, making provision for the sending of an army medical officer to visit the leading cities of the Atlantic and Gulf states, to ascertain the conditions and the sentiment of the people, to report these facts for the information of Congress, and to give his judgment as to what

<sup>1</sup> 14 U. S. Statutes at Large, 357.

system of quarantine, if any, which would give promise of success in checking the spread of epidemics, particularly of yellow fever, could be enforced by the federal government without antagonizing the states. Dr. Harvey E. Brown was appointed to make this investigation. After studying conditions carefully at close range, he reached the conclusion that, to deal with the situation efficiently, unity of control was necessary. He therefore recommended that a national system of quarantine be substituted for the varied local systems. It may be said that this was the conclusion of a federal officer; but I think it entirely safe to say that any competent authority in his profession who was familiar with administrative methods would have reached the same conclusion.

A bill embodying the recommendations of Dr. Brown was introduced at the next session of Congress and passed the House, but was defeated in the Senate because of the opposition of the Democrats under the lead of Senator Thurman. The ground of their opposition was that a national quarantine, if made effective, would interfere with the police power of the states. In their mind the doctrine of state-rights had taken much deeper root than the wise Roman maxim: *Salus populi, suprema lex*. Nothing short of a pestilence could rid them of a notion which our national development had rendered obsolete. To speak more accurately, it took a series of pestilences to convince them that our national evolution had rendered certain modifications in their theory necessary in order to apply it successfully to existing conditions. And the pestilences came.

The epidemics of yellow fever in 1873 and 1876 so increased the numbers and strengthened the convictions of those favoring the recommendations of Dr. Brown, that, in 1878, Congress passed an act providing for something resembling a national quarantine system, which, however, was to operate only against foreign countries. In its more important sections it provided that

No vessel or vehicle coming from any foreign port or country where any contagious or infectious disease may exist, and no vessel or vehicle conveying any person or persons, merchandise or animals, affected with any infectious or contagious disease, shall enter into any port of

the United States or pass the boundary line between the United States and any foreign country, contrary to the quarantine laws of any one of said United States, into or through the jurisdiction of which said vessel or vehicle may pass, or to which it is destined, except in the manner and subject to the regulations to be prescribed as hereinafter provided.

That it shall be the duty of the medical officers of the Marine Hospital Service and of customs officers to aid in the enforcement of the national quarantine rules and regulations.

That whenever, at any port of the United States, any State or municipal quarantine system may now, or may hereafter exist, the officers or agents of said system shall, upon application of the respective State or municipal authorities, be authorized and empowered to act as officers or agents of the national quarantine system, and shall be clothed with all the powers of United States officers for quarantine purposes, but shall receive no pay or emoluments from the United States. At all other ports where, in the opinion of the Secretary of the Treasury, it shall be deemed necessary to establish quarantine, the medical officers or other agents of the Marine Hospital Service shall perform such duties in the enforcement of the quarantine rules and regulations as may be assigned them by the Surgeon-General of that service under this act: *Provided*, That there shall be no interference in any manner with any quarantine laws or regulations as they now exist or may hereafter be adopted under State laws.<sup>1</sup>

Before this act could be put into operation, the southern states were afflicted by the worst epidemic of yellow fever in the history of this country, causing a loss of more than fifteen thousand lives and, according to Surgeon-General Walter Wyman, a pecuniary loss of not less than a hundred million dollars. Such inroads upon the well-being of our people could not fail to direct attention to the problem of finding some means of preventing or, at least, of reducing the extent of losses to be suffered by the recurrence of such epidemics in the future. In his annual message to Congress, in December, 1878, President Hayes emphasized the urgency of the situation in the following language:

The fearful spread of this pestilence has awakened a very general

<sup>1</sup> 20 Statutes at Large, 37.

public sentiment in favor of a national sanitary administration, which shall not only control quarantine but have the sanitary supervision of internal commerce in times of epidemics, and hold an advisory relation to the State and municipal health authorities, with power to deal with whatever endangers the public health, and which the municipal and State authorities are unable to regulate. The national quarantine act approved April 29, 1878, which passed too late in the last session of Congress to provide the means for carrying it into practical operation during the past season, is a step in the direction here indicated. In view of the necessity for the most effective measures, by quarantine and otherwise, for the protection of our seaports and the country generally from this and other epidemics, it is recommended that Congress give to the whole subject early and careful consideration.

This recommendation, coupled with the increasing demand that something be done, caused Congress again to take up the work of revising the quarantine laws in the interest of public health. By this time the alignment of forces had somewhat changed. Many of the rockribbed Democrats from the southern states had been impelled by the ravages of the yellow scourge to forget their extreme state-rights theories and were ready to place in the hands of the federal government, for the protection of the public health, far greater powers than it had hitherto exercised. To this end several bills were presented by southern senators. Indeed, the only conspicuous southern opponent of federal quarantine was Senator Morgan, who upon this question fought shoulder to shoulder with Senator Edmunds. But a majority of the Senate favored the federal as opposed to the local system, and a bill passed the Senate. This, however, was defeated in the House by a vote of 128 to 112. The opposition to the measure in the House was based upon the ground that the federal treasury ought not bear the expense of a work of which the benefit would inure mainly to one section. This furnishes one of the many evidences of the lengths to which sectionalism was at that time carried.

On February 7, 1879, Mr. Harris, on behalf of a select committee appointed to investigate the best means of preventing the introduction and spread of contagious diseases, made the following report to the Senate:

The committee has held joint sessions with a committee of the House of Representatives appointed for the same purpose, and the committees of the two houses, in joint session, appointed . . . scientific experts . . . The experts met at Memphis, Tennessee, on the 26th of December, 1878, and were there instructed by the committees to make such investigations as could be made within the time allowed, and report to the committees :

First. The origin, cause, and distinctive features of yellow fever and cholera ; whether they are indigenous to any part of the United States ; if, not, how they are brought to this country, and the localities from which they come ; and, if found to be indigenous and also imported, in what proportion and to what extent has their presence in the United States been owing to importation.

Second. The season of the year and atmospheric conditions when and in which they may be propagated.

Third. The means to be adopted by which their introduction into this country from other localities may be prevented.

Fourth. The method of preventing their propagation and spread when once introduced into the United States.

Fifth. The number of deaths that have occurred in the United States during the year 1878 ; the expenditure of money and injury to business resulting therefrom.

The experts were distributed to various places recently infected with yellow fever, to investigate and collect facts preparatory to reporting upon the questions propounded, but under orders to meet at Washington on the 15th of January, 1879, to agree upon their conclusions and make their report.

A joint sub-committee of three senators and three representatives was sent to New Orleans, and a similar sub-committee was sent to Memphis ; each of which committees took the testimony of a large number of leading medical and commercial men, which was submitted to the board of scientific experts upon their meeting on the 15th January, 1879, with such other communications from medical men and scientists as had come to the hands of the committee. The board of experts having before it also the results of the labors of what is known as the "Yellow Fever Commission," organized by the supervising surgeon of the Marine Hospital Service in 1878, and the expenses of which were paid by the munificent charity of Mrs. Elizabeth Thompson, of the city of Washington.

On the 30th of January, 1879, the board of experts submitted their report to the committees of the Senate and House of Representatives,

in joint session, which, with the evidence and communications above referred to, is herewith presented as an appendix to this report.

The board of experts say that, "according to the testimony of existing records, yellow fever has invaded the present territorial limits of the United States" in eighty-eight years between 1693 and 1878, and that the evidence of importation for seventy-seven of these eighty-eight years is more or less complete, and that every epidemic that has occurred in the United States can be traced, either with certainty or with a high degree of probability, to a new importation, and that there is no conclusive proof that the disease is indigenous to any part of the United States, or originated here in any single instance; but it is admitted that "there are facts which seem to warrant the inference that, in some of our southern cities, the specific poison of the disease, when hidden away from the cold in sheltered places, may live through a mild winter, and give rise, during the succeeding summer, to scattered cases of the fever; but the proof that such cases have at any time given rise to an epidemic is not conclusive."

From the testimony of eminent medical men, and the conclusions arrived at by the board of scientific experts, after the fullest and most careful investigation possible within the short time allowed, the committee strongly incline to the opinion that neither yellow fever nor cholera is indigenous to any part of the United States, and that the great majority, if not all the epidemics of these diseases with which the country has suffered so greatly, have resulted from importation.

The committee is of opinion that the best and only certain means of preventing the introduction of these diseases from other countries is absolute non-intercourse with ports where they exist in epidemic form during the time they so exist.

And the next best means of prevention is a well-regulated national quarantine, strict in its requirements as to the observance of all proper sanitary measures at the port of departure by all vessels sailing from infected ports, and equally strict in requirements and enforcements of all necessary inspections of such vessels, their cargoes, passengers, and crews, and the thorough disinfection of the same, when necessary, at quarantine stations before being allowed to enter any port of the United States.

While these quarantine regulations may not give absolute security against the importation of these diseases, they will, in the opinion of the committee, prevent importation to a very large extent, and secure benefits greatly in excess of any possible cost of their enforcement. The public health is second in importance to no question which ad-

dresses itself to the consideration of the legislator, and Congress should, in the opinion of the committee, within the scope of its constitutional powers, adopt such measures as are best calculated to preserve and promote it.

In the exercise of the power "to regulate commerce with foreign nations and among the States," the regulations should be such as not only to promote the commercial interests of the country, by measures suggested by those considerations which have generally heretofore controlled these regulations, but should also so regulate as to prevent, as far as possible, the importation of all contagious or infectious diseases from foreign countries and from State to State.

To this end the committee report and recommend the passage of a bill which prescribes certain duties to be observed and performed by all vessels coming from any foreign port where any contagious or infectious disease exists before departure, and inspection and, if necessary, disinfection and detention of vessel, cargo, passengers and crew before entering any port of the United States. And it also establishes a bureau of health, with a director-general of health as its chief executive officer, and a board of health composed of seven members, to be appointed by the President by and with the advice and consent of the Senate, and the Surgeon-General of the Army and the Surgeon-General of the Navy to be *ex-officio* members of said board, and that said bureau of health shall be charged with the execution of all sanitary measures within the District of Columbia which are now or may hereafter be required by law or made in pursuance thereof, and also the making, with the approval of the President, such uniform quarantine rules and regulations upon the commerce with foreign nations and between the States as may be deemed necessary and authorized by law, and the execution of the same. It is also charged with the supervision of all matters connected with the Marine Hospital service, the bill providing that the office of supervising surgeon of that service be abolished. It is also charged with the duty of obtaining information as to the sanitary condition of foreign ports.

While the bill reported by the committee does not present a complete and perfect system, or accomplish all that it is believed will be necessary and proper to be done in this respect in the future, it is, in the opinion of the committee, a step in the right direction, the beginning of a system that the calamities of the past have proved to be necessary and the benefits of the future will prove to be important.

In the opinion of the committee, Congress has no power to supersede or interfere with any quarantine regulations operating wholly

within any State, which may have been or may hereafter be adopted by any State or established by the authority of any State ; but independent of, and in addition to such quarantine regulations as the States may have adopted, or may hereafter adopt, Congress has the power so to regulate commerce as to prevent the importation of contagious or infectious diseases from foreign countries and from one State to another.

The bill reported by the committee proposes coöperation with State and municipal authorities without interfering with their respective systems, and invites the State authorities to undertake the execution of its provisions, and provides for the appointment of quarantine officers of the United States only at such places as the State authorities may refuse or fail to execute the law of the United States and the regulations made pursuant thereto.

While the committee is of opinion that the enforcement of quarantine regulations is important to prevent the introduction and spread of epidemic diseases, it is equally well satisfied of the importance of enforcing strictly the most thorough local sanitary measures in every city and town that would protect the lives and promote the health of its citizens.

While the weight of testimony greatly preponderates, and the opinions of the committee strongly incline to the conclusion, that neither cholera nor yellow fever is indigenous to any part of the United States, yet the proof of the fact that the latter, if not both, may not originate here, is not so conclusive as to justify or warrant cities, towns or communities in relaxing in the slightest degree in the observance and enforcement of all local sanitary measures necessary to and promotive of health.

On March 3, 1879, the following law was enacted :

Section 1. There shall be established a National Board of Health to consist of seven members, to be appointed by the President, by and with the advice and consent of the Senate, not more than one of whom shall be appointed from any one State, whose compensation, during the time when actually engaged in the performance of their duties under this act, shall be ten dollars per diem each and reasonable expenses, and of one medical officer of the Army, one medical officer of the Navy, one medical officer of the Marine Hospital Service, and one officer from the Department of Justice, to be detailed by the Secretaries of the several Departments and the Attorney General, respectively, and the officers so detailed shall receive no compensation. Said board shall



meet in Washington within thirty days after the passage of this act and in Washington or elsewhere from time to time upon notice from the president of the board, who is to be chosen by the members thereof, or upon its own adjournments, and shall frame all rules and regulations authorized or required by this act, and shall make or cause to be made such special examinations and investigations at any place or places within the United States, or at foreign ports, as they may deem best, to aid in the execution of this act and the promotion of its objects.

Section 2. The duties of the National Board of Health shall be to obtain information upon all matters affecting the public health, to advise the several departments of the government, the executives of the several States, and the Commissioners of the District of Columbia, on all questions submitted by them, or whenever in the opinion of the board such advice may tend to the preservation and improvement of the public health.

Section 3. The Board of Health, with the assistance of the Academy of Science, which is hereby requested and directed to coöperate with them for that purpose, shall report to Congress at its next session a full statement of its transactions, together with a plan for a national public health organization, which plan shall be prepared after consultation with the principal sanitary organizations and the sanitarians of the several States of the United States, special attention being given to the subject of quarantine, both maritime and inland, and especially as to regulations which should be established between State or local systems of quarantine and a national quarantine system.

Section 4. The sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay the salaries and expenses of said board and to carry out the purposes of this act.

The same Congress succeeded in passing, on July 1, 1879, an act "to prevent the introduction of contagious and infectious diseases within the United States." This act provided

that the Board of Health shall have power, when they may deem it necessary, with the consent and approval of the Secretary of the Treasury, as a means of preventing the importation of contagious or infectious diseases into the United States, or into one State from another, to erect temporary quarantine buildings and to acquire on behalf of the United States titles to real estate for that purpose, or to rent houses, if there be any suitable, at such points and places as are named in such section.

For these purposes the Board of Health was authorized to draw on the \$500,000 appropriated by the act of June 2, 1879.

We find in this act the first move in the direction of an interstate quarantine law. Not only did it provide for federal initiative in interstate quarantine, but it furnished an inducement for the states to bring their laws into harmony with the federal law in order that they might avail themselves of the federal appropriations. A further move was made in this direction in 1888, when Congress made an appropriation of \$486,500 for the construction, equipment and maintenance of quarantine stations at Delaware Breakwater, Cape Charles, Sapelo Sound, Key West, Gulf Station, San Diego and San Francisco.<sup>1</sup> The following year the president was

authorized, in case of threatened or actual epidemic of cholera or yellow fever, to use the unexpended balance of the sum appropriated by the joint resolutions approved September 26 and October 12, 1888, and one hundred thousand dollars in addition thereto, or so much thereof as may be necessary, in the aid of State or local boards or otherwise, in his discretion, in preventing and suppressing the spread of the same.<sup>2</sup>

Further supplementary appropriations were made in 1890.

In 1893 the most elaborate act which has yet been passed on the subject of federal quarantine became a law. Vessels clearing for American ports were required to secure a bill of health from the consul or consular medical officer at the port from which they cleared. Violations of this requirement were to be punished by a fine not exceeding five thousand dollars. The law provided further

that the Supervising Surgeon-General of the Marine Hospital Service shall, immediately after this act takes effect, examine the quarantine regulations of all State and municipal boards of health, and shall, under the direction of the Secretary of the Treasury, coöperate with and aid State and municipal boards of health in the execution and enforcement of the rules and regulations of such boards and in the execution and enforcement of the rules and regulations made by the Secretary of the

<sup>1</sup> 25 Statutes at Large, 356.

<sup>2</sup> *Ibid.*, p. 954.

Treasury to prevent the introduction of contagious or infectious diseases into the United States from foreign countries, and into one State or Territory or the District of Columbia from another State or Territory or the District of Columbia; and all rules and regulations made by the Secretary of the Treasury shall operate uniformly and in no manner discriminate against any port or place; and at such ports and places within the United States as have no quarantine regulations under State or municipal authority, where such regulations are, in the opinion of the Secretary of the Treasury, necessary to prevent the introduction of contagious or infectious diseases into the United States from foreign countries, or into one State or Territory or the District of Columbia from another State or Territory or the District of Columbia, and at such ports and places within the United States where quarantine regulations exist under the authority of the State or municipality which, in the opinion of the Secretary of the Treasury, are not sufficient to prevent the introduction of such diseases into the United States, or into one State or Territory or the District of Columbia from another State or Territory or the District of Columbia, the Secretary of the Treasury shall, if in his judgment it is necessary and proper, make such additional rules and regulations as are necessary to prevent the introduction of such diseases into the United States from foreign countries, or into one State or Territory or the District of Columbia from another State or Territory or the District of Columbia, and when said rules and regulations have been made they shall be promulgated by the Secretary of the Treasury and enforced by the sanitary authorities of the States and municipalities, where the State or municipal health authorities will undertake to execute and enforce them; but if the State or municipal authorities shall fail or refuse to enforce said rules and regulations the President shall execute and enforce the same and adopt such measures as in his judgment shall be necessary to prevent the introduction and spread of such diseases, and may detail or appoint officers for that purpose.<sup>1</sup>

Though imperfect in many respects, this law is an advance in the direction of enabling the federal government to enforce effective regulations in case of great emergencies. But it contains a number of provisions which have led and will continue to lead to conflicts in authority. Examples bearing out this statement will be found in Wyman's work on *Quarantine and*

<sup>1</sup> 27 Statutes at Large, 450.

*Commerce* (page 14). In matters of this sort, where one of the prime requisites to efficiency is promptitude of action, it is a serious mistake to make the federal government wait until there has been a failure by state or municipal authorities. There will always be more or less hesitancy upon the part of the federal government to provoke a conflict of authority by deciding that the state has failed. A more practicable plan is to entrust the work from the beginning to the service least likely to fail, and, if thought advisable, to empower it to invite the coöperation of the local authorities.

One of the most practical provisions of the law of 1893 is that furnishing an inducement to the states to give up their claims of jurisdiction in quarantine matters by providing that, whenever they turn over to the federal government the buildings, apparatus *etc.* used by them for quarantine purposes, the federal government will pay a reasonable price for the same. So far this provision has resulted in the transfer to the United States of their quarantine stations by the following states: Florida, North Carolina, New Jersey, Georgia and Oregon. The latter state abolished by joint resolution the state quarantine service and asked the federal government to take charge of the entire quarantine service of the state on May 20, 1905; and, upon acceptance of this offer by the Secretary of the Treasury, it repealed all of its laws relating to quarantine. Like action by other states would greatly simplify the problem of protecting the public health; for, so long as the states refuse to surrender their supposed rights, the federal government will be in the future, as it has been in the past, very loath to assume full control.

It is very gratifying to note the action of the conference of governors and other representatives of southern states held in Chattanooga, Tennessee, November 9 and 10, 1905. This body adopted the following preamble and resolutions:

Whereas the experience of recent years and especially the experience of this year have demonstrated beyond cavil that the house mosquito, known as the *stegomyia fasciata*, is the sole known cause of yellow-fever epidemics and have demonstrated the futility and nuisance of many antiquated methods of quarantine hitherto resorted to and the wisdom

and necessity, in the interest of the public health and the public business, of uniform regulations to prevent the importation into the United States of yellow fever and its spread from State to State in the unfortunate event of its introduction : Now, therefore,

*Be it resolved* : That we, delegates from Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, Maryland, North Carolina, South Carolina, Tennessee, Virginia and West Virginia, hereby respectfully request the Senate and House of Representatives in Congress assembled to enact a law whereby coast, maritime and national frontier quarantine shall be placed exclusively under the control and jurisdiction of the United States Government, and that matters of interstate quarantine shall be placed under the control and jurisdiction of the United States Government, acting in coöperation with the several State boards of health.

We furthermore respectfully request that Congress shall make adequate appropriation to enforce and perfect the objects of this memorial and to stamp out as nearly as practicable the yellow-fever-carrying mosquito in its breeding or living places in the United States and by negotiating arrangements with the Governments of Central and South America and the West India Islands, in places where the said mosquito has its breeding places or exists in said countries.

*Resolved, second* : That we urge upon the legislatures of the several Southern States that they enact quarantine regulations as nearly as possible in accord and conformity as hereafter enacted.

We furthermore urge the governors of the said several States with the above object in view specifically to call the attention of the legislatures of their respective States to the wisdom and policy of this course.

These resolutions are especially significant because they indicate that the prejudice of more than a century in favor of the doctrine of state-rights is not strong enough to prevent the southern statesmen of today from perceiving that matters which can best be handled by the general government should be entrusted to that government, unless the transfer of authority would be in violation of the constitution, in which case the constitution should be amended, provided the matter is of sufficient importance to warrant the trouble which such a proceeding involves. But in the case before us, there is no need of any amendment. There is ample authority vested in the federal government by the constitution to warrant its assuming control over maritime

and interstate quarantine, provided such an assumption be deemed expedient. And, as there is scarcely an argument in favor of any form of federal control of interstate commerce which does not hold good as regards this form, it would seem abundantly clear that federal control of quarantine is expedient.

Upon the question of the assumption of control by the federal government, President Roosevelt made the following recommendation in his annual message of December 6, 1905 :

It is desirable to enact a proper national quarantine law. It is most undesirable that a State should on its own initiative enforce quarantine regulations which are in effect a restriction upon interstate and international commerce. The question should properly be assumed by the Government alone. The Surgeon-General of the National Public Health and Marine Service has repeatedly and convincingly set forth the need for such legislation.

For some reason, this advice does not seem to have convinced Congress that the matter was sufficiently urgent to demand its attention. Past epidemics seem to have been forgotten, and there has been little or no indication that new epidemics were impending. Yet no one can review the work of the laboratories established by the federal government for the study of such epidemics as yellow fever, bubonic plague, *etc.*, without being convinced that there is much to be gained from such lines of investigation ; nor is it likely that any one state would consider itself under obligation to bear the expense of supporting laboratories for conducting investigations in the fruits of which all other states would share.

The history of immigration emphasizes the importance of providing against epidemics. During the fiscal year 1904, 1560 persons were excluded because of contagious diseases, and in the following year 2198 were excluded for the same reason. During the latter year, 5788 vessels were inspected, and of these 207 were disinfected, at the forty national quarantine stations along the Atlantic, Gulf and Pacific coasts.

I have reviewed the legislation upon this subject in somewhat copious detail because the subject is in itself interesting, and also because the tendency toward conservatism in this field fur-

nishes evidence that existing apprehensions concerning the centralization of power in the federal government have little basis. The fact is that the federal government has been slow in developing its powers. The only exceptions to this rule fall in three distinct periods: at the very beginning, when the influence of Hamilton was at its height; during and immediately after the Civil War; and during the present decade. In the first of these periods this development was necessary in order to avoid the rocks upon which the confederation split; in the second it was inevitable because the power of the federal government to maintain its own existence was the main issue upon which the war was fought; in the third, the issue was forced upon the federal government by reason of the necessity for controlling corporate power—a work for the performance of which the states had demonstrated their incapacity. But even during these periods there has been evident something of the tendency which we have noted in federal quarantine legislation—a tendency on the part of the central government to refrain from assuming the full extent of its constitutional authority until the exercise of such authority is forced upon it by the necessities of the case.

If this conclusion be correct, those who consider the protection of the public health a matter of the first importance can render a valuable service by doing their share toward developing an energetic public sentiment in favor of the expansion of the powers of the national government in this field. Congress must be forced to realize that the question is considered important, and that the people are convinced of the expediency of the exercise, by the federal government, of the quarantine powers which under the constitution it has a right to exercise. A "Committee of One Hundred" has been organized by the American Association for the Advancement of Science, for the purpose of considering questions relating to health and of advocating increased federal regulation of the public health; and it is to be hoped that the movement in this direction will receive from their hands an impulse which will bring results.

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## THE CAUSES OF POVERTY

“**P**OVERTY,” writes Professor Patten in his *New Basis of Civilization*, “is at so many removes from nature that it is omitted from the diagram.” Without reference to the nature of the diagram, the reason for deliberately leaving poverty out of it is very significant. It expresses the new view of poverty—that it not only is not desirable and not inevitable, but is actually unnatural and intolerable and has no legitimate place on our diagram of social conditions.

Wherever and whenever a glimmering of the new view of poverty is found, there is found also increased interest in its causes. This interest grows with the conviction that it is not desirable that there should always be a certain number of men naked and anhungered and in prison, even for the sake of giving certain other men the privilege of clothing and feeding and visiting them. The social cost of the graces of generosity and sympathy is too great if they can be had only by maintaining a poverty class. As soon as poverty is recognized to be undesirable, from the point of view of both rich and poor, the question arises whether it is necessary. Any attempt to answer this question involves logically an inquiry into the reasons for the existence of poverty, but as a matter of experience this step seems to be omitted. We are unwilling to concede that anything in the economy of the universe to which we seriously object must be helplessly endured. With the formulation of the question we jump to denial, and hurry on to discover, not *whether*, but *how*, poverty may be diminished and prevented. In order to do this, however, we are again driven to hunt for its causes. Every excursion after causes confirms our hasty intuitive conclusion, because the causes themselves are found to be controllable; and every confirmation of the belief that poverty is unnecessary sends us out again to search among causes for our points of attack.

A genuine anxiety to get at the underlying causes of poverty



has been characteristic of the "new" charity of the last thirty-five years, often disparagingly designated as "scientific." Foremost in the search have been the charity organization societies, instigated by the National Conference of Charities and Correction and by university professors,<sup>1</sup> and the superintendents of almshouses and other similar institutions, instigated by the United States Census Bureau.

In all these investigations the method has been the same, and it is the method employed by Charles Booth in his study<sup>2</sup> of pauperism in the Stepney and St. Pancras unions. The National Conference plan, formulated in 1888, was based on one already used by the Charity Organization Society of Buffalo. This method consists in studying a large number of individual cases of poverty, indicating in each case what is considered to be the cause, then adding up the number of cases ascribed to each cause and finding what proportion they form of the entire number of cases studied. The difficulty of fixing on one cause, out of the many existing circumstances which might be regarded as causative, led to the practice of assigning "principal" and "subsidiary" causes; and some scrupulous students<sup>3</sup> went so far as to grade the contributing causes on a scale of ten. This method was hailed as scientific; it was lauded at many a national conference; it was advocated and used by the most advanced and "scientific" leaders in philanthropy and social research; and only within the last few years has any objection been made to it—except by the district agents and visitors who were called upon to decide which of the circumstances in and around each poor family under their observation was responsible for its poverty. Although the objections were not based at the outset on any abstract conviction of the unsoundness of the method, it was because of the difficulties which were encountered in its

<sup>1</sup> Perhaps it would be nearer the truth to say that the charity organization societies have instigated the National Conference and the university departments. At least the work has been done by the societies, and the results obtained have been examined and interpreted to some extent in the Conference and in the universities.

<sup>2</sup> Published 1891.

<sup>3</sup> See, for example, A. G. Warner, *American Charities* (Revised edition, New York, 1908), pp. 42-45.

application that its unscientific character became apparent. It takes courage to protest against a method established by years of use and hallowed by names of high repute, but the protest must be made; for the method is open to fatal objections, and its undisputed dominance has delayed the advance that should have been made in the study of the causes of poverty.

The method rests on the assumption (1) that in every case of poverty there is one chief or principal cause, and (2) that this cause will readily be recognized by the person who is told to find it. Here, for example, is a widow with two little children. Her husband died three months ago. She has been living on the insurance, or so much of it as was left after the funeral, and on contributions made by relatives. Her husband was intemperate, and therefore there were no savings. The woman herself can do nothing to support her family, except the "day's work" that is available for even the inefficient. The children however are delicate, and one of them is sick, so that the mother can not go out. Is this family's dependence attributable to death or lack of employment or inefficiency or illness or intemperance? A good argument could be made for any one of these recognized, standard causes. The problem, however, is still comparatively simple, for the elements of environment and distant heredity have not yet been considered. It is not strange that these and similar puzzles have led investigators to select "insufficient income" as the cause of numerous cases of poverty, just as physicians enter "heart failure" on death certificates when they do not know why the heart ceased to beat. What the decision will be in any case depends not on the facts of the case, but on the more or less imperfect knowledge of the facts possessed by the investigator, *plus* his own bias, determined by natural temperament and education, *plus* his ability to recognize a cause when he sees it. In other words, the decision is merely an expression of opinion and is of no scientific value.

About four years ago the New York Charity Organization Society discontinued the practice of assigning principal and subsidiary causes of need whenever a case was closed. This decision was due to the discovery that a tabulation of causes of need according to districts gave an excellent photograph, not of the

needy families in the different districts, but of the mental attitude of the different district agents. The percentage of need attributed to lack of work varied, for instance, from 16 per cent in one district to 67 in another; intemperance was held accountable for only five per cent in a district where many of the families were those of Irish longshoremen, but for 23 per cent in another district which had a large proportion of Italians. An examination of the case-records failed to reveal in the different districts any such variations in the amount of sickness or of idleness or of intemperance as would account for the varying importance assigned to these factors as causes. Only one conclusion was possible: that experiments along this line were primarily of interest in relation to the psychology of visitors. Since then the study of causes of poverty has been based on the study of conditions in the families.

A demonstration of the fallacious character of the older method may be found in the returns from penal institutions obtained by the Committee of Fifty,<sup>1</sup> and presented by them as showing mathematically the importance of intemperance as a cause of crime.

In view of the popularity which this method attained and the persistence with which it was employed, it is interesting to note that its drawbacks were long ago perceived by its more intelligent supporters. It is a matter of record that problems similar to those presented above were publicly discussed. At the National Conference of 1899, for example, there was such a discussion, in which Miss Richmond, Miss Birtwell and Professor Lindsay took part. The obstacle presented by incomplete information was recognized in the rule, formulated about this time, that when in doubt you were to select the cause "*farthest back*" of *which you were sure*. The variations in the personal point of view were also recognized by some who promoted this method of research. At the same conference (that of 1899) Professor Lindsay said:

The variations in the amount of poverty in different cities attributed

<sup>1</sup> Koren, *Economic Aspects of the Liquor Problem* (Boston and New York, 1902).

to any one of these causes can be accounted for more rationally on the basis of differences in method and judgment of those who fill out the blanks than upon the basis of differences in the conditions of the population.

But he nevertheless presented figures for three cities and accounted for differences in percentages by differences in the sanitary conditions and racial elements in those cities. The comfortable theory was advanced that the variations in personal equation might be trusted to correct one another; so that, for example, a tendency in one person to regard intemperance as the cause of poverty in every case in which intemperance is discernible will be offset by a tendency in another person to exaggerate the effect of inequitable industrial conditions. Of course these are variations which are quite as likely to be intensified as to be neutralized by increasing the number of investigators, for there are fashions in thinking, and one-sided views are frequently held by large numbers of like-minded persons.

It is not too much to say that this method of studying causes of poverty had a pernicious effect on the persons who were engaged in the collection of material. If the investigator felt no difficulty in assigning causes, the process tended to foster the false idea that every case of poverty is a simple result of one, or at most two circumstances; or if he felt the difficulties of his task, its mechanical execution tended to awaken in him a distrust of all social study, if such study must be based, as the wise ones said it must, on a foundation so little entitled to respect.

These figures have nevertheless served a good purpose, for they have given occasion for a vast amount of profitable discussion, which has led us on from one view of the causes of poverty to another.

The first classification of causes adopted by the National Conference had twenty-two headings: drink; immorality; shiftlessness and inefficiency; crime and dishonesty; roving disposition; imprisonment of breadwinner; orphans and abandoned children; neglect by relatives; no male support; lack of employment; insufficient employment; poorly paid employment; unhealthy and dangerous employment; ignorance of English; accident,

sickness or death in family; physical defects; insanity; old age; large family; nature of abode; and other or unknown.

This classification had not been in use long before its defects were felt. A case of imprisonment of breadwinner was also a case of crime or dishonesty. A case of abandonment might fall also under almost any other heading. Lack of employment might be due to drink, a roving disposition, ignorance of English, insanity, accident or old age. Old age and a large family, it was seen, do not always, or even generally, involve dependence, and therefore these should not be listed as causes. The general dissatisfaction led, in 1899, on the initiative of Dr. Philip W. Ayres, to a revision of the list. An effort was made to avoid cross-classifications and to eliminate conditions not usually productive of dependence. The discussion at this time turned largely upon the difference between a "condition" and a "cause." The following classification was adopted: (1) Causes within the family: disregard of family ties; intemperance; licentiousness, dishonesty or other moral defects; lack of thrift, industry or judgment; physical or mental defects; sickness, accident or death. (2) Causes outside the family: lack of employment not due to employee; defective sanitation; degrading surroundings; unwise philanthropy; public calamity; and other unclassified causes.

This is clearly a more logical classification; but during the nine years that have elapsed since it was made our ideas have been modified by the new knowledge we have gained of the relations between familiar phenomena, and we have arrived, almost unconsciously, at a new view of nearly all the causes in the first of these two groups. In general the change has consisted in moving the causes in the first group over into the second, placing them under the head "outside the family." Behind "disregard of family ties" we see defective education of both boys and girls, instability of employment and the influence of institution life. Behind "intemperance" we see poor food, congested living, lack of opportunities for wholesome recreation and the power of the liquor trust. In the place of "licentiousness, dishonesty and other moral defects" (when these are causes of poverty and not, as is much more frequently the case,

devices for escape from poverty) we are inclined to put our ineffectual penal methods and, again, defective education and, again, unwholesome conditions of modern city life. "Lack of industry, thrift or judgment" appears in many instances to be really the result of poverty, the physical and mental degeneration caused by years of privation showing itself in laziness and shiftlessness. Lack of industry in the grown man is not infrequently the result of premature employment which an earlier generation of social investigators would have commended as thrift. "Physical and mental defects" are today increasingly regarded as evidence of inadequate provision for the segregation and education of defectives, of neglect of the physical welfare of school-children, of unintelligent methods of instruction. "Sickness, accident and death" are analyzed. Preventable disease is traced to its causes—to bad sanitary conditions in dwellings and work-shops, to the ignorance of great numbers of mothers concerning the care of their babies, to the action of commercial interests which make it a difficult matter for even the well-to-do to get pure milk and food, to governmental inefficiency exhibited in a contaminated water supply and dirty streets. For "accident" we read, in many cases, neglect of the employer to provide safe conditions for labor, and neglect of the legislature to require or neglect of the administration to enforce the establishment of such conditions. We know today that the great majority of deaths that cause dependence are preventable. That is equivalent to saying that we have found causes farther back than "death," and that we have also found out how those causes may be controlled. In short, the recognized causes of poverty are in fact largely symptoms or results of poverty. They are, to be sure, potent to produce more poverty; they are evidences of a downward tendency and must be corrected; but they are not the "underlying" causes.

Our ideas about the second group in this classification, the causes outside the family, have been less disturbed, probably because at the time they represented more recent thought on this subject. The relative importance attributed to this group as compared with the causes within the family has, however, been growing rapidly, and we read into "defective sanitation"

and "degrading surroundings" an infinite number of new meanings. "Unwise philanthropy" seems to have undergone a curious change of content. It used to be applied in the case of a family in which the pauper spirit had been developed by an excess of generosity. This possibility no doubt exists; but if we were now to pick out a family whose dependence is due to the unwise administration of relief, we should be apt to select a widow broken down by over-exertion in supporting her children because we had not been generous enough in our help.

An interesting tendency is noticeable, in the discussions of the last two or three years, to restore to our list of causes one that had been discarded from the first classification, *viz.* "poorly-paid employment." The conviction has been growing, among some of those who think most clearly and most carefully about these things, that there are classes of laborers whose wages, fixed by custom and not responding to the increase in the cost of living, are absolutely insufficient to maintain a normal family at the present standard of life. And we are coming, therefore, to think of "insufficient income," when it means inadequate compensation, not as a joke, but as one of the authentic causes of dependence.

A new classification, which reflects the recent change in thought, was offered at the National Conference in 1906 by Dr. Lee K. Frankel. It consists of only four divisions: ignorance, industrial inefficiency, exploitation of labor and defects in governmental supervision of the welfare of citizens. Logic seems to demand that we reduce these four causes to two, cutting out ignorance and inefficiency as results. To some form of exploitation or to some defect in governmental efficiency most of the circumstances which we commonly regard as causes may be ascribed. For practical purposes, however, these two causes must be broken up into their components, and to account for all the poverty in existence, a third heading must be used expressing the defective will that chooses unwisely in the face of knowledge and the selfishness that evades responsibility. It is our faith that human nature is so susceptible to good influences that these defects may be reduced to a minimum by improving the environment. At any rate, the experiments thus far made

have given reason for such a hope, and they encourage us to concentrate effort in eliminating exploitation and securing efficient government. The irreducible minimum of "natural depravity," "moral defects," or whatever it may be called, will remain and will have to be reckoned with, but may not be large enough to constitute a serious problem.

A knowledge of the causes of poverty is of value in two ways. It is equally important in helping the individual family that needs assistance and in planning movements for the improvement of social conditions. We have learned that about one-third of all the deaths that leave women alone with little children to support are due to tuberculosis, and that the dying husband and father frequently leaves the disease as a ghastly legacy to one or more members of his family. We have also learned that this disease may be cured by a long and expensive treatment, and that its communication may be prevented. Our accurate knowledge of this cause results in a modification of our methods of treatment of families in which there is tuberculosis. Liberal relief is given to enable the husband, if he is the invalid, as he so often is, to take the long and expensive treatment; quick return to work is discouraged rather than urged; the family is moved to a better apartment where the consumptive can have a room alone, instead of being advised to reduce expenses by taking cheaper rooms; the children are examined, even if they seem well, in order that the earliest symptoms of contagion may be detected and danger averted; and, if all this is done in the right way, the family is not pauperized, but the man gets well and there is one less "widow with dependent children" than there would have been. Our knowledge of tuberculosis has led us also to organize what is called a "social movement" for dealing with this cause of dependence. This includes schemes for educating the public, through the newspapers, through special publications, through exhibitions, through lectures, through electric displays in the parks and advertisements in the street-cars; it includes also comprehensive plans for sanatoria and hospitals and dispensary systems, and all the other devices that have become so familiar that it is hard to realize that they are mainly the growth of the last six years.



We know now, to take another example, that premature employment results in a stunted maturity and a premature old age which are causes of poverty. This knowledge saves us from the folly of inculcating habits of industry when habits of play are more needed, or of finding "easy work that can't hurt him" for an under-sized, illiterate boy of thirteen, in order to provide the last three dollars a week the family needs "to get along," congratulating ourselves that we have "rendered the family self-supporting." It leads us, at the same time, to organize all over the country a systematic campaign against child labor, in order to secure laws that will guarantee to every child a chance for the physical and mental development that he needs to ensure him against being dependent on charity when he shall have become a man with a family.

Knowledge of causes is indispensable to good work in either direction, whether in helping an individual or in improving social conditions. This has been said again and again, but when it comes to applying this maxim our ideas have been rather confused. "Distress cannot be permanently relieved except by removal of the causes of distress" is the principle we have clung to. If this is as true as it sounds, then a knowledge of causes is of use only in preventing the development of poverty. It will make us improve housing conditions, prohibit child labor, provide a rational system of education, clean the streets, purify the water supply, forbid all home work in the tenements, checker the map of the city with small parks, abolish quack medicines, build hospitals of all sorts and keep in them the people who ought to be there, ensure the purity of drugs and foods, revise our entire correctional system and, perhaps, even regulate wages. In our care of individual families it will keep us alert to recognize the existence of causes that have not yet begun to show effects; it will make us urge and aid families to move from dark basements to well-ventilated rooms, to keep their children in school until they can safely go to work, to go to the hospital or sanatorium when they need to do so and before it is too late, to learn how to buy and how to prepare nutritious food. But if it is true that "distress cannot be permanently relieved except by removal of the causes of distress," we must infer either that a

knowledge of causes is of no help in our efforts to relieve existing poverty, or that the conditions which we are trying to change, the symptoms of poverty which we are trying to remove, are in reality causes. The second alternative is the true explanation. There has hardly been a discussion of causes of poverty that has not contained a reference to Oliver Wendell Holmes's oracular statement that it is necessary to begin two hundred years ago to cure some cases of disease. This is always quoted to show that the existing conditions are not the "underlying causes," and that, in order to decide in a given case what the cause is, you must look back two hundred years. No fault can be found with this statement when it is applied to increase our understanding of present conditions or to impress us with the necessity of looking ahead two hundred years from the present in making our plans; but if it is applied to the problems of relieving existing poverty it leads to despair. The underlying causes of two hundred years ago, or even of the preceding generation, may be crystal clear to us, but we cannot affect them; the existing conditions are what we have to deal with, and our practice has been to deal with them more hopefully than our theories would warrant. The results have justified the hopefulness; and a new theory is now emerging, namely, that there is in human nature recuperative power of such strength that the removal of the existing visible effects of the "underlying causes" will do almost as well, as far as the individual case is concerned, as the removal of the causes themselves; or, in other words, that poverty is itself one of the most potent causes of poverty and one of those most responsive to treatment. This is a truth that Mr. Bernard Shaw happened upon the other day in London, when he said that the whole trouble with the poor was their poverty, and that this could be made all right by dividing among them the money contributed for charity without any intermediate waste in salaries. The newspapers of the better sort sprang to the defense of the relief methods which require salaried services, and ridiculed Mr. Shaw's pronouncement as a begging of the question. It did not beg the question; and, however naïve his practical application of it was, it contained a truth which had been stated long before: "The wealth of the rich is their strong city; the destruction of the poor is their poverty."

For practical purposes, the important thing for us to know, in relation to a dependent family or in relation to a community burdened with dependents, is: What adverse conditions are present which can be corrected? In the community these adverse conditions are "underlying causes." In the single families they are the results of the previous action of these or of earlier underlying causes, but they are also certain causes of future poverty. They must be corrected and their recurrence must be provided against.

The first step, therefore, in the treatment of a family or a city is to find out what adverse conditions are present and to what extent; and this is the first step also in the rational study of the causes of poverty. These adverse conditions are facts, and they are ascertainable facts. They either do or do not exist in the family or in the city. Their prevalence can be measured.

We have already a pretty definite idea what conditions are adverse, what conditions breed poverty, in a family or in a city; but of the extent and relative importance of these conditions we have little accurate knowledge.

Our ideas as to what constitutes an adverse condition in a family are the result of a study of the characteristics of families which have become dependent. Our ideas of what constitutes an adverse condition in a city are acquired in another way: we begin, for some reason or other, generally from our observation of individual cases, to view with suspicion some feature of the city's life, and we study that feature, trying to ascertain what bad effects it produces and why it produces these effects and what can be done about it.

The basis for a statement of the adverse elements present in the circumstances of dependent individuals and families is general observation, which is really an unconscious collection of statistics. Only conscious collections, of which we have few as yet on this subject, can give accurate knowledge of the relative importance of the various elements, but the unconscious collections may be trusted to the extent of basing on them a mere enumeration. The adverse conditions tending to involve dependence which have been observed are these: absence of natural care for children; lack of provision for old age; physical dis-

ability; mental defects; certain forms of criminality and moral obliquity; and inefficiency.

Dependence is the normal state of children and of the aged, but this normal dependence is on relatives. Childhood, however, may be deprived of natural care by the death of one or both parents if other relatives are lacking or are inaccessible, and also by neglect or maltreatment on the part of parents; and old age may lack the children or friends or savings that are its normal accompaniments. Both of these periods, during which dependence is the normal state, are lengthening at the expense of the working period. The tendency among well-to-do families to prolong their children's preparation for life has its counterpart in the legislation which is compulsorily prolonging that of the poorest. Simultaneously the upper limit of the working age is apparently being depressed. There is certainly a tendency to begin work at a later age; there is apparently a tendency to stop work at an earlier age. The latter tendency is one which counteracting influences may and should eventually overcome; but in many occupations it has been a conspicuous feature of modern industry. At the same time the average age at death is increasing. There are thus three factors tending to decrease, absolutely or relatively, the portion of life in which a man may work, and to increase, absolutely or relatively, the periods of dependence. Until wages have fully responded by an increase that will enable the average man not only to support his children for a longer time, but also to provide in a shorter working period for a longer old age, or until the effective working period has been materially lengthened, this adverse condition will persist. In it we find the reason why the problem of old-age pensions has become acute; from it comes much of the misery which gives point to radical socialistic proposals. Physical disability may either incapacitate the wage-earner or merely increase the family expenses. It may consist of permanent defects, permanent or temporary injury from accident, industrial or otherwise, or acute or chronic illness. Sickness and physical disability in its various forms give to the workers among the poor in their own homes their chief occupation, and to social workers for the improvement of general conditions their best opportunity.

Mental defects tending to involve dependence vary from insanity and feeble-mindedness down to peculiarities of temperament, such as obstinacy or a quick temper, which interfere with economic success. While this field of work is less encouraging, so far as improvement of the individual is concerned, there is here even greater need for a wise system of institutional care, and there is here an opportunity to introduce radically preventive measures. Crime and moral defects are adverse conditions in the family from an economic standpoint when they result in imprisonment of the wage-earner or inability to keep work or evasion of family obligations. Desertion, intemperance and vagrancy are from this point of view more significant than the more startling crimes.

Inefficiency (not amounting to defects) may be physical, mental or moral; and it may be due to such varied causes as malaria, intemperance, neglected teeth, defective education or unaccustomed surroundings. It may be environmental rather than personal, and it constitutes the first point of attack for all thorough-going reforms in the educational system.

Public disasters, such as fire, flood, earthquake, volcanic eruption or tornado, produce conditions not merely adverse but wholly abnormal. Of somewhat the same nature are the abnormal industrial conditions at times of financial crisis or wide-spread strike, when men in the prime of life, of reasonable education, health, industry and capacity, find it impossible to support a normal family of the average size. But even in normal times there are adverse conditions in every American city. There are insanitary houses, over-crowded apartments, ill-ventilated factories, germ-laden dust in the streets and germ-laden water in the mains. Little children are in glass-works or selling papers, when they should be at school or in bed. Men and women are working over-long hours in disease-breeding surroundings. The police are conniving with criminals; the courts are imposing sentences that confirm tendencies to crime. Men are exploiting, for their own profit, the weaknesses of their fellows, both as employees and as consumers. The study of causes, enlightening to the student, indispensable to the statesman, elementary to the social worker, beneficent to the poor, need not wait for hard times

or times of great calamity, but may proceed at all times, under the most favorable conditions yet known in any community.

Study of the causes of poverty at this stage of our knowledge should consist of investigations into the prevalence of adverse conditions. What we need to know, for practical purposes, is not whether twenty per cent or thirty per cent or fifty per cent of the poverty in existence is due to illness, but how much illness there is, of what kinds it is, how much of it is unnecessary and by what means we may eliminate the unnecessary part. What we need to know about congestion is not what percentage of criminality and dependence is attributable to it, for that we can never find out, but where the congested districts are, how far the adverse features of life in them may be overcome, and what can be done to induce or to compel people to move elsewhere. In the language of current philosophical discussion, pragmatism affords our best working program. We are to look away from "first things, principles, categories, supposed necessities" and look towards "last things, fruits, consequences," facts. We are to look for those particular ideas and facts which will "help us to get into satisfactory relation with other parts of our experience."

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## MARXISM VERSUS SOCIALISM. II<sup>1</sup>

**T**HERE is no necessary connection between the economic interpretation of history and socialism. A man may interpret the past in terms of economic cause and effect and yet be given to no speculations about the future, or he may be led to forecast an increasing individualism. It would obviously be inadmissible to call such an one a socialist. Until recently, nevertheless, every writer who interpreted history economically was taken and declared to be an orthodox disciple of socialism. This was no chance error, but rather a well-defined type of a mode of classification in which the popular mind habitually indulges. The popular mind, it is well to remember, does not dwell with the philosophers in their "marble temple shining on a hill," but in the muddy world of concrete personal experiences.<sup>2</sup> Systems of philosophy, or scraps of them, act upon the mind of the public only after they have become part and parcel of that tangle of experiences through which it has to find its way. In assorting and classifying theories the popular mind is guided not by logic but by experience. It perceives that certain theories, philosophical and literary, are set forth and defended by persons who hold certain social or political views; and by a process which may be described as "substitutional" it identifies the theories with the tendencies which they foster and subserve. Thus in Russia, for decades, the writers who defended "art for art's sake" were immediately recognized as political reactionaries, while every "realist" was assumed to be a liberal or a radical. Similarly in Germany, during the first half of the nineteenth century, "romanticism" stood for political conservatism, if not for reaction, while in Feuerbach's decade "naturalism" stood for political revolution and a humanitarian socialism. Similarly Marx's economic interpretation of history has come to stand for militant socialism.

<sup>1</sup> For the first part of this study see *POLITICAL SCIENCE QUARTERLY*, XXIII (June, 1908), 193-219.

<sup>2</sup> William James, *Pragmatism* (1907), pp. 21, 22.

Logically, these substitutions were and are indefensible. The connections between these theories and the practical ends which they were used to subserve was local or temporary. In England, for example, William Blake, who was certainly neither realistic nor naturalistic, who shared with German romanticists and Russian devotees of art for art's sake the love of the symbolic and mystic, inclined in his political theories to revolutionary socialism.<sup>1</sup> In England, "art for art's sake" was preached by William Morris, a socialist, and by Oscar Wilde, who saw in man's first disobedience man's original virtue, advocated the abolition of property, urged taking rather than begging, marked down all our values and considered our society to be bankrupt. Similarly, the economic interpretation of history has been divorced from socialism. Today, as Professor Seligman points out, "the writers who are . . . making the most successful application of the economic interpretation are not socialists at all."<sup>2</sup>

In their place and time, however, these popular classifications were true. The Russian literary men of the sixties who advocated art for art's sake represented a religious and political authoritarianism. On the other hand, the faithful description of the actual conditions of existence in Russia which the realists called for and supplied meant propaganda, primarily of discontent, ultimately of revolution. The German romanticists were conservatives or reactionaries; and Feuerbachian naturalism, according to Feuerbach himself, was intended to prepare the way for the reconstruction of the political and social order.<sup>3</sup> Similarly, the popular identification of the economic interpretation of history with socialism represented a correct appreciation of Marx's motives and of the practical bearing of the method as employed by him and his disciples.

It was for political reasons that Marx emigrated to France; it was for similar reasons that he was exiled from France; in Brussels he lived under the constant and suspicious supervision

<sup>1</sup> Cf. William Blake, *Poetical Works* (Rossetti's edition, 1890), p. 142. Regarding Blake as a "Liberty boy" and his attitude towards the Revolution, cf. Edwin J. Ellis, *The Real Blake* (London, 1907), pp. 162 *et seq.*

<sup>2</sup> Seligman, *The Economic Interpretation of History* (1902), p. 109.

<sup>3</sup> Ludwig Feuerbach, *Werke* (Leipzig, 1846), I, xiv, xv.



of the Belgian "administration of public safety." Is it to be assumed that he gave so much concern to the several governments because he was busily engaged in elaborating a scholarly method for historical research? Or is it to be assumed that a year after the hunger riots of the Silesian weavers, a year or two before the revolution of '48, he was taking a rest from all political activity, escaping the turmoil by giving himself up to the joys of pure theory?

Far from it. We see Marx and Engels speculating; but the axes upon which their speculations revolve are the social movement and the political revolution. Their literary activity is their political activity.<sup>1</sup> The economic interpretation was not the offspring of dispassionate research; it was conceived in minds saturated with ideas of social revolution. As early as 1845, at the Elberfeld gathering of communists, Engels, still a half-utopian so far as the future organization of society was concerned, argued for communism as an economic necessity and pictured the social revolution as economically unavoidable. "With the same certainty," Engels tells us, "with which from a given mathematical proposition a new one is deduced, with the same certainty we can deduce the social revolution from the existing social conditions and the principles of political economy."<sup>2</sup> Two years later Marx and Engels were writing the *Communist Manifesto*, the "fundamental proposition" of which is the economic interpretation of history.

The propaganda of the economic interpretation of history, of the "critical insight into the conditions, progress and general

<sup>1</sup> . . . "Man sieht daraus, wie der Wunsch, praktisch zu wirken, in erster Reihe diesen literarischen Plan beherrschte, den Marx und Engels für Jahr und Tag im Auge behalten haben." Aus dem literarischen Nachlass von Marx, Engels *etc.* (Stuttgart, 1902), II, 332.

<sup>2</sup> "Sie sehen also, meine Herren, auch im Einzelnen das bestätigt, was ich im Anfange allgemein, von der Konkurrenz überhaupt ausgehend, entwickelte—nämlich dass die unvermeidliche Folge unserer bestehenden sozialen Verhältnisse unter allen Bedingungen und in allen Fällen eine *soziale Revolution* sein wird. Mit derselben Sicherheit, mit der wir aus gegebenen mathematischen Grundsätzen einen neuen Satz entwickeln können, mit derselben Sicherheit können wir aus den bestehenden Verhältnissen und den Prinzipien der Nationalökonomie auf eine bevorstehende soziale Revolution schliessen." *Rheinische Jahrbücher zur gesellschaftlichen Reform*, herausgegeben von Hermann Püttmann, vol. i (Darmstadt, 1845), pp. 78, 79.

results of the actual social movement" <sup>1</sup> was Marx's chief activity during the years 1846–1848, and this activity was political. He was not conducting a historical seminar in Brussels; he was supplying the revolutionary army with a new revelation and was instilling into it a spirit of absolute confidence in the triumph of its cause. It was the future that concerned him; the past was a *pièce justificative*. An interpretation of history he called it, because to him, born as he was in the Hegelian school, past, present and future was one historical process.

It was Marx's economic interpretation of history, and not that of any other man, which attracted public attention; and in classifying the economic interpreters of history as socialists, the popular mind exhibited, as in other similar cases, a perfectly sound appreciation of both the psychological motive and the practical aim of the theory. But this classification also has proved to be temporary. Today, such is the irony of fate, the economic interpretation of history, while of great value to the historical student, is an unyielding and merciless steel trap in which so-called scientific socialism is caught and held.

#### IV

The socialistic state of Marx was not to be manufactured by any world-reformer. Socialism was to be a product of economic tendencies, and of these the most important was the concentration of production.

Anyone who is acquainted with the thought of the nineteenth century knows that the industrial changes that were in progress were very generally viewed with misgivings if not with apprehension. In the first half of the century, *i. e.* at the time when the doctrines of scientific socialism were formulated, the tall chimney, to use Schultze-Gaevernitz's expression, <sup>2</sup> was generally regarded as a warning finger—a *mene tekell* of impending revolution. The social effects of the introduction of machinery were too serious to be overlooked. The tendency towards industrial centralization and the social, economic and political aspects of this

<sup>1</sup> Marx, Herr Vogt (London, 1860), p. 35.

<sup>2</sup> Schultze-Gaevernitz, *The Cotton-Trade in England and on the Continent* (London, 1895), p. 164.

tendency were attracting the attention of many thoughtful men before Marx began to speak or write. What was drastically formulated by Marx as an unavoidable necessity had been previously suggested and discussed as a possibility. Constantin Pecqueur,<sup>1</sup> for example, had pointed out with remarkable clearness that the older methods of production could not compete with the modern factory, and that production on a large scale was so much cheaper that the centralization of industry was a matter of economic necessity.<sup>2</sup> Pecqueur had also raised the question: If production on a large scale has undoubted advantages, what is likely to happen to the small establishments? and had answered that they would be wiped out by cruel competition, and that the small producers would possibly themselves become proletarians. Socially and politically such a situation would reduce itself to a new industrial feudalism. The sole alternative which he saw was a centralized industry on democratic lines, based on copartnership and coopération.<sup>3</sup>

<sup>1</sup> C. Pecqueur, *Économie sociale: Des intérêts du commerce de l'industrie et de l'agriculture, et de la civilisation en général, sous l'influence des applications de la vapeur* (2d edition, Paris, 1839). This work of Pecqueur was widely read and was "couronné par l'Institut de France."

<sup>2</sup> "Tout le monde sait qu'en effet, dans l'emploi de la force motrice à vapeur, pour obtenir le bas prix des produits et réaliser de grand bénéfices, il faut opérer sur *grande échelle*, employer de grands capitaux et un grand nombre d'ouvriers; en un mot, *produire en grand*. . . . Point d'économie sans cela: c'est que le frais de premier établissement et d'entretien de deux machines à vapeur d'inégale puissance, ne sont pas proportionnés à leur degré d'inégalité. Ainsi il ne coûte pas le double pour l'acquisition d'une machine double en force; il ne faut pas deux chauffeurs au lieu d'un, deux fois plus d'espace pour la loger, deux fois plus de combustibles pour la chauffer, ni pour qu'elle fonctionne deux fois plus de temps." C. Pecqueur, *op. cit.*, I, 56, 57.

<sup>3</sup> "On peut très bien supposer que les sociétés anonymes ou en commandite par grosses actions, les propriétaires et les industriels très riches d'eux-mêmes, accaparent le travail des petits industriels, en les *tuant* par une concurrence démesurément inégale, et cruellement impitoyable; il peut en advenir que tout ce qui ne serait point capitalistes ou propriétaires de terre, aille se ranger petit à petit parmi les travailleurs prolétaires. . . ." *Ibid.* I, 396, 397.

"Ou la petite industrie disparaissant, les petits industriels seront les coassociés des grands établissements, coopérateurs de la production, et coparticipants aux bénéfices, selon son habilité, leur capital et leur travail; ou ils dégèneront en ouvriers salariés, en une foule de serfs travaillant au jour le jour dans les manufactures; en prolétaires, toujours pauvres, toujours sans avenir; et toutes les grandes industries seront monopolisées exclusivement par une féodalité industrielle." *Ibid.* II, 101.

Whether Pecquer influenced Marx is immaterial. The ideas expressed by the French economist were at the time more or less common property. Only the way in which Marx formulated them is important. For him it was not a question of a choice between industrial feudalism or industrial democracy. The present had but one road to travel; upon the future was the stamp of the inevitable. From his point of view there was no need to invent socialistic industrial schemes. Industry and agriculture would necessarily become thoroughly centralized and socialized. There would be no need to force the artisan, the small trader, the farmer into a socialistic scheme. "The small tradespeople, shopkeepers and retired tradesmen generally, the handicraftsmen and peasants—all these sink gradually into the proletariat,"<sup>1</sup> and the centralization of industry goes on. Nor is that to be the fate of the lower middle-class only. "Entire sections of the ruling classes are by the advance of industry precipitated into the proletariat."<sup>2</sup> To the question: Will socialism expropriate and abolish the hard-won private property of the small farmer? he responds: "There is no need to abolish that; the development of industry has to a great extent already destroyed it, and is still destroying it daily."<sup>3</sup>

Marxian socialism had profound contempt for utopias. Why should amateur schemes of an economic and social organization be elaborated, when capitalism's own mission was to organize and centralize the production of the commonwealth? No preaching of eternal justice can assemble scattered production, and there is no possibility of socialism without such economic centralization.

Sixty years have passed since Marx's *Manifesto* was published; it is therefore fair to inquire whether the economic changes that have occurred have justified his theories and expectations.

That a centralization of industry has taken place is an undeniable fact. Moreover, this centralization has gone further in this country than anywhere else in the world. Professor Seligman writes:

<sup>1</sup> *Communist Manifesto* (Kerr edition), p. 21.

<sup>2</sup> *Ibid.*, p. 26.

<sup>3</sup> *Ibid.*, p. 34.

According to the census of 1900 there were 185 combinations, representing 2040 plants and turning out products to the value of \$1,667,350, a little over 14 per cent of the total industrial output of the United States. But since 1900 the movement has progressed rapidly. In 1900 there were 16 combinations, each with a capital of over \$50,000,000 and with an aggregate capital of \$1,231,000,000. In 1907 . . . not only were there 27 such combinations with an aggregate capital three times as great (\$3,785,000,000), but a single combination now had a larger capital than the 16 combinations and about one-half as large as all the 185 combinations in 1900.<sup>1</sup>

The combination to which Professor Seligman refers is the United States Steel Corporation, an industrial consolidation which controls not less than 785 industrial plants. While the United States is generally regarded as the land of trusts *par excellence*, the growth of large industrial consolidations and combinations is very much in evidence both in England and on the continent of Europe. But the centralization of industry in recent years is by no means primarily due to purely technical conditions—to the development of the tool into the machine. Steam and machinery have certainly favored large-scale production, but there has been no such far-reaching centralization as the Marxian vision of future economic development presaged. The cotton industry of Great Britain, the history of which furnished so much material to the author of *Capital*, exhibited, as Bernstein has pointed out, only a very moderate concentration in the twenty-odd years following the publication of Marx's work. Here is a comparison of the data for 1868 as given by Marx with the data for 1890:

COTTON INDUSTRY	1868	1890	PERCENTAGE OF
Factories . . . . .	2,549	2,538	decrease 0.43
Power-looms . . . . .	379,329	615,714	increase 62
Spindles . . . . .	32,000,014	44,504,819	" 39
Persons employed . . . . .	401,064	528,795	" 32
Average number per factory	156	208	" 33

<sup>1</sup> Seligman, *Principles of Economics* (3d edition, 1907), p. 342.

The other branches of the textile industry show, according to Bernstein, even less concentration.<sup>1</sup> In at least one branch of the textile industry, in weaving, the number of factories steadily increased: in 1870 they numbered 1658; in 1874, 1703; in 1878, 1765; in 1885, 1915; in 1890, 2015. In the textile industry as a whole, the number of establishments fluctuated as follows: in 1870 there were 6807; in 1874, 7394; in 1878, 7105; in 1885, 7465; in 1890, 7190.<sup>2</sup>

The development of the trust, therefore, can scarcely be regarded as the inevitable result of industrial technique. It is rather to be viewed as a counter-revolution against free competition. Free competition led persistently towards lower prices, overproduction and lower profits; the desire to check the ruinous results of free competition has led to trade agreements, pools, syndicates, combinations—to one form or another of what we call the trust. "After all," writes Macrosty, "men are in business not to exhibit the 'natural' laws of economics but to make an income, and it is a poor consolation to a bankrupt to know that he has been overwhelmed by a stream of tendency."<sup>3</sup>

Experience has further shown that trusts do not necessarily wipe out smaller concerns. In our everyday language we understand under trusts not only giant mergers and rigid industrial consolidations, but all sorts of industrial trade agreements, federations, pools, syndicates and associations formed for the purpose of maintaining prices. The looser federations are especially characteristic of Europe's industrial development. So Macrosty sums up the tendency in the English iron industry by expecting "in no very remote future to see the iron industry governed by loose federations of great powers, each large firm belonging to a number of associations according to the variety of its products."<sup>4</sup>

As a matter of fact, pools and trade associations often help to

<sup>1</sup> Bernstein, *Die Voraussetzungen des Sozialismus und die Aufgaben der Sozialdemokratie* (Stuttgart, 1899), p. 56.

<sup>2</sup> These data are taken from the *Statistical Abstract for the United Kingdom* (London, 1897), pp. 202, 203.

<sup>3</sup> Macrosty, *Trusts and the State* (1901), p. 152.

<sup>4</sup> Macrosty, *The Trust Movement in British Industry* (1907), p. 330.

maintain smaller industrial organizations. E. J. Smith, the promoter of the "Birmingham Alliances" which have proven so successful, has laid special stress on the protecting of the smaller concerns, saying:

The great advantage which a large capital gives must be retained as legitimate interest on capital only, instead of being given away for the purpose of flooding the markets with productions at selling-prices which cannot be charged by less fortunate firms without loss. Materials used in the process of manufacture have their fair average market values, which most makers have to pay. The purchasing of large quantities of material at one time, and to be paid for promptly, will no doubt make the buying-prices lower to the lucky capitalist, but whatever advantage is gained in this way should be regarded as interest on capital and retained.<sup>1</sup>

The more one studies the trusts, the less one is inclined to make sweeping generalizations. The types of combinations are so numerous and the policies of the individual combinations are so varied that only one general statement can be made with confidence, namely, that all trusts tend to organize to a greater or less degree their respective industries and to maintain steadier prices.

The social democrats of both continents, however, see in the American trust movement proof positive of the inerrancy of the Marxian forecast of economic development. Certain European socialist pamphlets convey the impression that the American manufacturing industry is thoroughly concentrated and organized, that the smaller producer is practically eliminated, and that the trusts are tending towards a trust of trusts. America therefore, at least technically and economically, is far ahead of all other countries on its way towards organized, centralized, socialized production.

In studying the report on *Manufactures* of the Twelfth Census, one is impressed by the number of small and middle-size industrial establishments of which the report takes cognizance. Here are the figures for 512,254 industrial establishments: \*

<sup>1</sup> E. J. Smith, *The New Trade Combination Movement* (1899), p. 27.

\* Twelfth United States Census (1900), *Manufactures*, part i, p. lxxiii.

No employees,	110,510	51 to 100 employees,	11,663
Under 5 "	232,726	101 to 250 "	8,494
5 to 20 "	112,138	251 to 500 "	2,809
21 to 50 "	32,408	501 to 1000 "	1,063
Over 1,000 employees, 443			

The special census report of 1905 on *Manufactures* gives us a comparative table which shows, on the whole, a gradual tendency towards concentration, with the small producer in many industries holding his own. Indeed, the number of industrial establishments increased from 1890 to 1900 more rapidly than the number of wage-earners.<sup>1</sup>

	1890	1900	INCREASE (PERCENTAGE)
Number of establishments,	355,415	512,254	44.1
Number of wage-earners,	4,251,613	5,308,406	24.9

Of course it is a fact that certain industries are centralized and organized on a national scale and are practically monopolies in the hands of a few persons. Such facts present serious problems. But we are more likely to find an advantageous solution of such problems by dealing with the facts as they are than by dealing with unverifiable "future" facts.

The industry of Europe is much more scattered and decentralized than that of the United States. According to the last German census, 4,770,669 out of about ten million wage-earners were employed in petty commercial and industrial establishments with one to five employees each.<sup>2</sup> In that country the independent artisans are far from being eliminated by the industrial process. In Prussia, in 1861, there were 534,556 masters and 558,321 apprentices; in 1900-1902 the independent masters numbered 679,323, with 559,738 journeymen (*Gesellen*) and 253,055 apprentices (*Lehrlinge*).<sup>3</sup> In commerce the small establishment is still more persistent than in industry. The German Empire counted:<sup>4</sup>

<sup>1</sup> Special Census Report, *Manufactures*, 1905, part i, p. xxxvi.

<sup>2</sup> Sombart, *Sozialismus und soziale Bewegung* (6te Auflage, Jena, 1908), p. 84.

<sup>3</sup> J. Wernicke, *Kapitalismus und Mittelstandspolitik* (Jena, 1907), p. 134.

<sup>4</sup> *Ibid.*, p. 240.



COMMERCIAL ESTABLISHMENTS	1882	1895
Without employees . . . . .	429,825	454,540
With 1-5 " . . . . .	246,413	450,913
" 6-50 " . . . . .	26,531	49,271
" over 50 " . . . . .	463	960

Such is the state of concentration in German industry and commerce. Let us now consider the Marxian doctrine and the facts regarding concentration in agriculture.

The attitude of Marx and of Engels towards the agricultural population was consistently unfriendly. In their first great work the fathers of scientific socialism praise capitalism for rescuing "a considerable part of the population from the idiocy of rural life."<sup>1</sup> In the second part of the third volume of *Capital* Engels expresses the hope that the virgin soil of the Russian steppes and American prairies may still ruin Europe's landlords and peasantry.<sup>2</sup> The reason for this attitude is obvious. On the one hand socialist production is technically impossible unless scattered agriculture is concentrated; on the other hand the socialistic propaganda encounters in the peasant proprietor its most conservative and most obstinate foe, against whose will no social reconstruction of society is conceivable. In a discussion of the situation in France, Engels admits that no social revolution is possible without the backing of the peasants.<sup>3</sup>

The Marxian theory of course declares that small farming, like every petty industry, is doomed. This we learn from the *Communist Manifesto*; and the same information is given in the later writings of Marx and Engels and in those of their official commentators. Thus we read in *Capital*:

<sup>1</sup> Marx and Engels, *The Communist Manifesto*, p. 19.

<sup>2</sup> "Glücklicher Weise ist noch lange nicht alles Steppenland in Bebauung genommen; es ist noch übrig genug vorhanden um den ganzen europäischen grossen Grundbesitz zu ruinieren und den kleinen obendrein." Marx, *Das Kapital* (Hamburg, 1894), vol. iii, part ii, p. 260.

<sup>3</sup> "In einem Punkt haben unsere französische Genossen unbedingt Recht: gegen den Kleinbauer ist in Frankreich keine dauernde Umwälzung möglich." Fr. Engels, "Die Bauernfrage in Frankreich und Deutschland," *Die neue Zeit*, 1895, I, 301.

In the sphere of agriculture, modern industry has a more revolutionary effect than elsewhere, for this reason, that it annihilates the peasant, that bulwark of the old society, and replaces him by the wage laborer. Thus the desire for social changes and the class antagonisms are brought to the same level in the country as in the towns.<sup>1</sup>

In *Der Vorbote*, the party organ of the International, Marx's ardent follower, Johann Philipp Becker, declared, in large print, soon after the appearance of *Capital*, that the omnipotence of capital, the influence of science, the tendencies of the times and the interest of society as a whole had irrevocably and mercilessly condemned small-scale agriculture to slow but inevitable death.<sup>2</sup> This attitude was characteristic of the whole Marxian wing of the International. It was entirely in keeping with the Marxian doctrine, which may be summed up in the equation: small farming stands in the same relation to centralized agriculture as the hand-loom to the power-loom in industry.<sup>3</sup>

The attitude of Marxism towards the land question did not change with the passing of the International. We find the same doctrine, and even the same wording of the doctrine, in Liebknecht's *Grund und Bodenfrage*, which for years served as a catechism for socialist agitation among the German peasantry. The central assertion of this booklet is that the small agriculturist is doomed.<sup>4</sup> The doctrine is set forth today in every Marx-

<sup>1</sup> Marx, *Capital* (Fourth English Edition, London, 1891), I, 513.

<sup>2</sup> "Die kleinbäuerliche Bewirtschaftung ist deshalb durch die Allmacht des Kapitals, durch den Einfluss der Wissenschaft, den Gang der Thatsachen und das Interesse der Gesamtgesellschaft unwiderruflich und ohne Gnade zum allmählichen Tode verurteilt." *Der Vorbote*, December, 1869, p. 181.

<sup>3</sup> "Die kleine Bauernwirtschaft steht im demselben Verhältnis zur modernen grossen Agrikultur, wie die Handspinnerei und Weberei zur Maschinespinnerei und Weberei." J. Georg Eccarius, *Eines Arbeiters Widerlegung der nationökonomischen Lehren John Stuart Mills* (Hottingen-Zurich, 1888), p. 52. This booklet of Eccarius was revised by Marx and is consequently an authorized expression of his views. On page 57 of the same pamphlet one reads: "Die kleine Bauernwirtschaft ist politisch, sozial und ökonomisch gerichtet. Sie hat sich nirgends bewährt und kann sich nirgends bewähren als zuverlässiger, schritthaltender Zeitgenosse der modernen Industrie und des sozialen Fortschritts. Sie ist das fünfte Rad am Wagen des politisch-sozialen Fortschritts, das Bleigewicht, welches die Arbeiterbewegung in Frankreich wie anderswo auf dem Kontinent paralyisiert."

<sup>4</sup> W. Liebknecht, *Die Grund- und Bodenfrage* (Leipzig, Verlag der Genossen-

ian social-democratic program. The program of the German Social Democratic party begins with the well-known sentence:

The economic development of bourgeois society leads by natural necessity to the downfall of the small industry, whose foundation is formed by the worker's private ownership of his means of production. It separates the worker from his means of production and converts him into a propertyless proletarian, while the means of production become the monopoly of a relatively small number of capitalists and large landowners.

The capitalist and the large landowner are thus put into one class, and small industry, whether industrial or agricultural, into another class, predestined to be destroyed.

Let us turn now to the leading contemporary exponent of orthodox Marxism, the official interpreter of the German party program, Karl Kautsky. He also admits that it is useless to try to make socialists out of real peasants. "Peasants who feel that they are not proletarians but true peasants, are not only not to be won over to our cause but belong to our most dangerous ad-

schaftsbuchdruckerei, 1874). The pamphlet ends (p. 128) with the words: "Kurz: Der Dampfpflug wird den Ackerbau ebenso revolutionären, wie der Dampfstuhl und die Spinnmaschine die Industrie revolutioniert haben—er vernichtet die Kleinproduktion." The important fact is not that the booklet was in great vogue but that its position was strictly Marxian. The critic of Marx may truly observe that here is a doctrine which had no basis of facts whatsoever and no shadow of justification. But the greater was the faith with which this theory was received. The experiences of 1848 were fresh in men's memories, and the alternative suggested by the outcome of the French disturbances was that either the social revolution or the peasant was doomed. The socialists chose the latter interpretation. Liebknecht frankly explains: "Wir brauchen die Landarbeiter und Kleinbauern, soll unser Ringen nicht ein hoffnungsloses sein. Der unheilvolle Gegensatz zwischen Stadt und Land, der bisher jede freiheitliche Bewegung gehemmt, vereitelt hat, muss aufhören. Das warnende Exempel Frankreichs ist nicht an uns verloren. Am 24 Februar 1848 stürzte Paris, die Stadt, den Thron des korrupten Bürgerkönigs, und neun Wochen später schickte das Land eine reaktionäre Nationalversammlung nach Paris, welche die neugegründete Republik untergrub, und die Juniinsurrektion zur Niederwerfung des sozialdemokratischen Industrieproletariats organisierte. Fünf und einen halben Monat nach der Junischlacht wählte das Land mit überwältigender Majorität Louis Bonaparte zum Präsidenten der Republik, und bereitete dadurch den Staatsstreich vor, welcher drei Jahre später die Republik vollends beseitigte, und Frankreich der bonapartistischen Räuberbande zu systematischer Ausplunderung überlieferte. Das Land, das sind die Bauern. Die französischen Bauern haben das Kaiserreich gemacht aus blinder Furcht vor dem städtischen Sozialismus." *Ibid.*, p. 103.

versaries.”<sup>1</sup> Economic tendencies, however, are wiping them out of existence. To promise any succor to the small-scale producer in industry or in agriculture is to feed him on illusions. Efforts to arrest the inevitable economic development will be fruitless; if they produce any results at all, these results will be injurious to the classes in whose behalf the efforts are made. Painful as the process may be, the peasant is bound to sink into the proletariat.<sup>2</sup>

Naturally enough this theory has aroused little enthusiasm in the agricultural districts; and neither in France nor in Germany have the socialists made any headway among the peasants. Realization of this fact has caused attempts to be made, both in France and in Germany, to make the socialist program more attractive to this class. The French Socialist Congress which met at Nantes, in September, 1894, and the German Social Democratic Convention (*Parteitag*) held at Frankfort, in October of the same year, adopted resolutions favoring protection of peasant interests. At the Frankfort Convention Dr. Schönlanck suggested that a different “lingo” be used in talking to the peasant. Socialistic doctrine should be administered to him in homœopathic doses, otherwise, this speaker feared, the medicine might kill the patient.<sup>3</sup>

<sup>1</sup> “Die Bauern, die sich nicht als Proletarier sondern als echte Bauern fühlen, sind für uns nicht nur nicht zu gewinnen, sie gehören zu unseren gefährlichsten Gegnern.” Karl Kautsky, “Das Erfurter Programm und die Landagitation”; *Die neue Zeit*, 1895, I, 280.

<sup>2</sup> “Die Sozialdemokratie *macht* nicht die ökonomische Entwicklung; die Verdrängung des Kleinbetriebs durch den Grossbetrieb wird ohne ihr Zuthun durch die Kapitalistenklasse aufs gründlichste besorgt. Allerdings hat sie keine Ursache sich dieser Entwicklung entgegenzustemmen. Aber die ökonomische Entwicklung aufhalten wollen, heisst keineswegs die wirklichen Interessen der Kleinbauern und Kleinbürger vertreten. Denn alle dahingehende Versuche müssen scheitern, sie können, soweit sie überhaupt zu einer Wirkung kommen, nur schaden, nicht nützen. Den Handwerkern und Bauern Massregeln in Aussicht stellen, durch welche ihre Kleinbetriebe lebensfähig gemacht werden, heisst keineswegs ihre Interessen vertreten, es heisst vielmehr Illusionen in ihnen wecken, die sich nie verwirklichen können und die sie vom rechten Wege zur besten Vertretung ihrer Interessen ablenken.” Karl Kautsky, *Das Erfurter Programm in seinem grundsätzlichen Theil* (2d edition, Stuttgart, 1892), p. 254.

<sup>3</sup> “Erreichen wir auf diesem Wege nichts anderes, als diese Bauernschaft zu neutralisiren, so haben wir genug gethan . . . Es darf nicht wieder so kommen wie

Such proposals and efforts are easily explicable from the opportunist point of view of the popular agitator, but they are not in harmony with the Marxian doctrine. The contradiction between that doctrine and the peasant program of the Frankfort and Nantes conventions was so glaring, that Kautsky expressed the situation quite accurately by saying that, while the socialists were still very far from capturing the peasants, the peasants had captured the socialists.<sup>1</sup> No less distinct was Engels's protest. To a French socialist, who was seeking his instruction and advice, he explained that the progress of capitalism was destroying peasant property absolutely; that there was no reason why the party should not endeavor to make the proletarianization of the peasantry less painful; but that to go further and to try to save the peasantry was to attempt the economically impossible, to sacrifice the principle, to become reactionary.<sup>2</sup> Of the same tenor was the last article of Engels in the *Neue Zeit*, already quoted. Large-scale production, he said, would run down the peasantry with their small farms just as a railroad train would

im Jahre 1848. Meine Freunde! Als die Pastete des Absolutismus geplatzt war, da hat die Reaktion den Bauern schleunigst Zugeständnisse gemacht und sie so gewonnen. Wir müssen verhüten dass die *nagelbeschlagenen Schuhe der Bauernsöhne sich gegen uns wenden, wir müssen sie neutralisieren, pazifizieren*. [Beifall]. . . . Mit den Landleuten müssen wir *Fraktur* reden. Wir müssen endlich einmal eine *praktische Agitation* treiben, nicht bloß die *graue Theorie*. . . . Unsere revolutionäre Politik darf nicht in geschwollenen Kraftphrasen bestehen . . . Die Medizin des Sozialismus muss der Landbevölkerung in homöopathischen Dosen beigebracht werden, sonst bringt sie den Bauern um." Protokoll über die Verhandlungen des Parteitages der Sozialdemokratischen Partei Deutschlands, abgehalten zu Frankfurt am Main, 1894, p. 141.

<sup>1</sup> "Für diesen argen theoretischen Rückschritt ist nur *ein* Grund ersichtlich: die Rücksicht auf die Bauern. Noch haben wir sie nicht gepackt, aber sie haben bereits uns." *Die neue Zeit*, 1895, I, 281.

<sup>2</sup> "Die Entwicklung des Kapitalismus *vernichtet* unrettbar das kleinbäuerliche Grundeigenthum. Unsere Partei ist sich vollständig klar hierüber, aber sie hat durchaus keinen Anlass, diesen Process durch eigenes Eingreifen noch extra zu beschleunigen. Gegen richtig gewählte Massregeln die den Kleinbauern den unvermeidlichen Untergang weniger schmerzhaft machen sollen, lässt sich prinzipiell nichts einwenden; geht man weiter, will man den Kleinbauer permanent *erhalten*, so erstrebt man nach meiner Ansicht ökonomisch *Unmögliches*, opfert das Prinzip, wird *reaktionär*." This letter is reprinted from the *Vorwärts* in the proceedings of the Frankfort Convention, p. 151.

run down a wheel-barrow.<sup>1</sup> How strongly Engels felt on the subject is further shown by some of his recently published letters to the American socialist, Sorge. In one of these he characterizes the effort to win the peasants as a "confidence game" (*Bauernfängerei*) and declares that any attempt to protect them against taxes, usury and the great landholding interests is in the first place imbecile and secondly impossible.<sup>2</sup> His feelings were bound to be shared by everyone who understood the Marxian doctrine and was a "scientific" socialist. Some of the leading German socialists, like Schippel, did not hesitate to designate the socialist agrarian program as a bit of political charlatanism.<sup>3</sup> And the Frankfort Convention of 1895 disavowed most emphatically the agrarian program, because it promised to the peasantry the improvement of their conditions, which meant the strengthening of their property rights.<sup>4</sup>

The Convention of Frankfort adjourned; the German Social Democracy rested upon its reaffirmation of the Marxian doctrines, including the inevitable doom of the peasantry; but, by one of fate's little ironies, a census (the first since 1882) had been taken at the beginning of that very year, and while the discussions in Frankfort were in progress the statistical results of this census were being computed. To the Marxian theorists

<sup>1</sup> Engels, "Die Bauernfrage in Frankreich und Deutschland," *Die neue Zeit*, 1895, I, 303.

<sup>2</sup> "Auf dem Kontinent wächst mit den Erfolgen die Lust nach noch mehr Erfolg, und die Bauernfängerei im buchstäblichen Sinne wird Mode. Erst erklären die Franzosen in Nantes durch Lafargue nicht nur (was ich Ihnen geschrieben) das wir keinen Beruf haben, den Ruin der Kleinbauern den der Kapitalismus für uns besorgt, durch direktes Eingreifen unsererseits zu beschleunigen, sondern auch, man müsse den Kleinbauer gegen Fiskus, Wucher und Grossgrundbesitzer *direkt schützen*. Das können wir aber nicht mitmachen, weil es erstens dumm und zweitens unmöglich ist." Briefe und Auszüge aus Briefen von Johann Philipp Becker, Josef Dietzgen, Friedrich Engels, Karl Marx u. A. an F. A. Sorge und Andere (Stuttgart, 1906), p. 415.

<sup>3</sup> "Das Agrarprogramm, das mit einer plötzlichen Wendung den Anschluss an die Bewegung unter den Bauern herzustellen sucht, ist ein Stück dieser politischen Charlatanerie." Protokoll über die Verhandlungen des Parteitagcs zu Breslau, 1895, p. 110.

<sup>4</sup> "Der von der Agrarkommission vorgelegte Entwurf eines Agrarprogramms ist zu verwerfen. Denn dieses Program stellt der Bauernschaft die Hebung ihrer Lage, also die Stärkung ihres Privateigenthums in Aussicht." *Ibid.*, p. 204.

the results were staggering. The small agricultural landholder was gaining ground. The doctrine of concentration of agriculture was disproved. The census showed that each hundred hectares of land under cultivation was divided among the following groups in the following proportions:

SIZE OF HOLDING	1882	1895	GAIN OR LOSS
Below 2 hectares	5.73	5.56	—0.17
2 —5 "	10.01	10.11	+0.10
5 —20 "	28.74	29.90	+1.16
20 —50 "	22.52	21.87	—0.65
50 —100 "	8.57	8.48	—0.09
100 —200 "	4.77	4.75	—0.02
200 —500 "	9.92	9.47	—0.45
500 —1000 "	7.52	7.40	—0.12
Over 1000 "	2.22	2.46	—0.24

In words instead of figures, this table means that the middle-sized farms (20 hectares=nearly 50 acres) which can be taken care of by a peasant family without the help of wage labor are on the increase.<sup>1</sup> These data have impressed all unprejudiced economists as showing that the farmer who depends upon his family has a distinct advantage over the landowner who has to depend upon hired farmhands. The farms ranging from two to twenty hectares have gained in thirteen years not less than 659,259 hectares, while those ranging from twenty to one thousand hectares have actually lost 86,809 hectares.

The statistical data of other countries yield more or less the same results. No theory of concentration of agriculture or of the doom of the small farmer can be based, for example, on the figures given by our United States census reports:<sup>2</sup>

<sup>1</sup> Interesting in this respect are the conclusions drawn from the data of the German census by Professor Rauchberg in his article on "Entwicklungstendenzen der deutschen Volkswirtschaft" in *Archiv für soziale Gesetzgebung und Statistik* (1901), XII, 339 *et seq.* For a short digest of the census material relating to agriculture, see Dr. G. von Mayr's *Allgemeines statistisches Archiv* (1898), V, 658-675.

<sup>2</sup> Abstract of the Twelfth Census of the United States, 1900 (Washington, 1902), p. 217.

YEAR	NUMBER OF FARMS	NUMBER OF ACRES	AVERAGE NUMBER OF ACRES TO A FARM
1900	5,737,372	838,591,774	146.2
1890	4,564,641	623,218,619	136.5
1880	4,008,907	536,081,835	133.7
1870	2,659,985	407,735,041	153.3
1860	2,044,077	407,212,538	199.2
1850	1,449,073	293,560,614	202.6

In America the average acreage is still too large for intensive cultivation, and with increasing land values we may confidently expect a very considerable decentralization.<sup>1</sup> For Holland, Bernstein\* quotes the following data:

SIZE OF FARMS (IN HECTARES)	NUMBER OF FARMS		INCREASE OR DECREASE	PERCENTAGE
	1884	1893		
1-5	66,842	77,767	+10,925	+16
5-10	81,552	94,199	+62,647	+198.5
10-50	48,278	51,940	+ 3,662	+ 7.6
Over 50	3,554	3,510	- 44	- 1.2

In Friedrich Hertz's instructive book a large amount of statistical material is to be found, all showing the non-existence of any tendency towards centralization of agriculture.<sup>3</sup>

Eduard David, the well-known socialist leader, who is unquestionably the most learned socialist authority on all agricultural questions, has come to the conclusion that the peasants are getting the better of the large landowners<sup>4</sup> and that their standard

<sup>1</sup> "Land values tend to rise with growing prosperity. A given capital thus represents a constantly diminishing acreage, and it becomes increasingly profitable to apply more labor and minor machines to small areas rather than large capital and vast machines to great areas. That is, we have a tendency to more intensive rather than large-scale farming." Seligman, *Principles of Economics*, p. 336.

<sup>2</sup> *Voraussetzungen des Sozialismus*, p. 62.

<sup>3</sup> F. O. Hertz, *Die agrarischen Fragen im Verhältniss zum Sozialismus* (Wien, 1899). See also Shippel's estimate of Hertz's book, "Hertz gegen Kautsky," *Sozialistische Monatshefte*, 1899, pp. 507-510.

<sup>4</sup> David, *Sozialismus und Landwirtschaft* (Berlin, 1903), I, 50, 51.



of life is rising rapidly, the agricultural life of today being a life of great comfort as compared with that of the preceding generation.<sup>1</sup> David, of course, is not an orthodox Marxian, but a "revisionist."

We see accordingly, that while concentration in industry and commerce is far from complete centralization, no tendency towards concentration exists in agriculture. Marxian socialism, as has been sufficiently shown, is not the scheme of would-be world-reformers. Socialism is to be the inevitable result of certain conditions and tendencies. It is to be the heir of capitalism. It will step into its heritage when capitalism has developed a centralized and socialized mode of production and has created a thoroughly proletarianized, class-conscious and revolutionary population. For this reason the figures and facts above presented are of vital significance to scientific socialism. If certain conditions and tendencies make socialism inevitable, do not the absence of these conditions and the existence of contrary tendencies make socialism impossible? True to the letter and true to the spirit of the Marxian doctrine was Kautsky when he wrote: "So long as the artisan feels himself to be an artisan, the peasant a peasant, the small trader a small trader, so long as they possess a strong class-consciousness, they must, no matter how ill they fare, steadfastly adhere to private ownership of the means of production and remain inaccessible to socialism."<sup>2</sup>

## V

The centralization of production in industry and agriculture has, according to Marx, a political side: it proletarianizes the masses. The economic development, therefore, not only paves the way technically for socialist production but also produces the political force that is to put an end to capitalism. Or, as

<sup>1</sup> David, *op. cit.*, I, 36.

<sup>2</sup> "So lange der Handwerker als Handwerker, der Bauer als Bauer, der Kleinhändler als Kleinhändler fühlt, so lange sie ein kräftiges Klassenbewusstsein haben, müssen sie an dem Privateigentum an den Produktionsmitteln festhalten und dem Sozialismus unzugänglich sein, wie schlecht es ihnen auch gehen mag." Karl Kautsky, *Das Erfurter Program in seinen grundsätzlichen Theil erläutert* (2d ed., Stuttgart, 1892), p. 180.

Marx expresses himself: "Not only has the bourgeoisie forged the weapons that bring death to itself, it has also called into existence the men who are to wield those weapons, the modern working-class, the proletarians."<sup>1</sup>

We have seen in the preceding pages that so far as agriculture is concerned there is, if anything, a slight decentralization of production. Consequently the proletarianization of the farming class may be dismissed from consideration. In industry the situation is different. Here a substantial concentration has taken place, and it is claimed that the masses have been correspondingly or more than correspondingly proletarianized. Let us try to find out, therefore, exactly what is meant by "proletariat" and "proletarianization of the masses."

Marx tells us that "in proportion as the bourgeoisie, *i. e.* capital, is developed, in the same proportion is the proletariat, the modern working class, developed—a class of laborers who live only so long as they find work, and who find work only so long as their labor increases capital."<sup>2</sup> The official interpreter of present-day orthodox Marxism, Karl Kautsky, explains to us wherein the factory hands of today differ not only from the artisan and farmer of the past, who owned the means of production and were therefore independent, but also from the journeymen of the pre-capitalistic epoch. The latter, he says, "belonged to the family of the master, with the expectation of becoming some day masters themselves. The proletarian stands entirely on his own feet and is doomed to remain forever a proletarian."<sup>3</sup>

This Marxian conception of the proletarian as a modern product involves an idealization of the past. As a matter of fact, the little we actually know about the conditions which prevailed in mediæval industry gives us no intimation of a golden age, but rather a record of woe and distress. In making this statement I do not refer simply to the period of the so-called decay of the guild system, when the masters, as we are told, were primarily bent on exploiting the journeymen and keeping them out of the

<sup>1</sup> Communist Manifesto, p. 22.

<sup>2</sup> *Ibid.*

<sup>3</sup> Kautsky, *Das Erfurter Programm*, pp. 33, 34.

guilds; on the contrary, I include the entire epoch in which the guilds flourished. I see no necessity for differentiating this epoch into historical periods, because I can find no fundamental points of difference.<sup>1</sup> We all know that as early as the thirteenth and fourteenth centuries there were bitter struggles between the journeymen and the masters. The master blacksmiths of Frankfurt, first organized as a guild in 1377, entered in 1383 into an ironclad agreement with the guilds of Worms, Speyer, Mainz, Bingen and four or five other German cities to keep their journeymen in control and submission.<sup>2</sup> The same situation existed in other parts of Germany and in other European countries. In Danzig, for instance, the beginning of the struggle between masters and journeymen followed immediately upon the organization of the guilds. In 1385 the journeymen were striking and the city authorities were threatening to cut off their ears.<sup>3</sup> In France, the "family-relations" of masters and journeymen were characterized by strikes and riots, leading to bloodshed.<sup>4</sup> In Rheims, as early as 1292, the masters were enjoined from combining against their journeymen, and the latter from conspiring against their masters.<sup>5</sup> Nor does England show any lack of evidence that its journeymen regarded themselves as a separate class, antagonistic to the masters. As early as 1350 and 1362

<sup>1</sup> Germans of the historic romantic school have sacrificed their splendid learning to their *Nationalgefühl*. They have idealized their national past beyond the point of recognition. Their motives were of course estimable: Gierke, Schönberg, Stahl and the rest of them were scholarly patriots. But we that are not Germans have ever since been retailing a part of their learning and all their *Nationalgefühl*. The latter ought to have been left for German consumption.

<sup>2</sup> Cf. Schanz, *Gesellenverbände*, p. 42.

<sup>3</sup> Kulisher, *Evolucia pribili s kapitala* (1906), I, 419, 420: also Schönbank's article "Gesellenverbände" in the fourth volume of Conrad's *Handwörterbuch für die Staatswissenschaften*.

<sup>4</sup> "L'histoire des villes de Brie et de Champagne est fréquemment traversée par des crises intérieures qui rappellent les grèves et les émeutes de l'époque moderne. En 1280, les ouvriers drapiers de Provins, furieux de voir augmenter les heures de travail, se soulèvent et massacrent le maire. A Châlons, les événements n'eurent pas un caractère aussi tragique; pourtant le roi dut intervenir par lettres patentes en 1328, pour forcer les ouvriers à travailler le matinée et l'après-dinée." Étienne Martin-Saint-Leon, *Histoire des corporations de métiers* (Paris, 1897), p. 280.

<sup>5</sup> "Reims, un jugement arbitral de 1292 interdit les bans et alliances, tant entre ouvriers tisserands contre les maîtres qu'entre maîtres contre les ouvriers." *Ibid.*

London ordinances were adopted to put an end to journeymen's strikes.<sup>1</sup> Not only do we find in fourteenth-century England a special journeyman class, composed of workmen who have little hope of ever becoming masters, who are confronted with prohibitive entrance fees for admission into the mystery, but in some trades the masters have gone so far as to exact an oath from apprentices that they will not set up in business for themselves, even if they can, unless their masters shall give hereto their special consent. We see the legislature and town-council trying to intervene in favor of the journeymen. As Professor Ashley justly observes, "the evil must have been unendurable before the town council would interfere; for in most places the mysteries were so powerful that the municipal authorities were only too ready to support the master-craftsmen."

Marx was not unaware of the difference between mediæval masters and journeymen when he was developing, in the opening lines of his *Manifesto*, his doctrine of class-struggle; but whenever he discussed the city proletariat as a product of modern capitalism, totally and fundamentally differing from any working class in the past, he ignored the extent to which those journeymen were a class.

In some degree, however, Marx's failure to distinguish between masters and journeymen in the middle ages is justifiable. The difference in the economic well-being between the so-called independent master, the possessor of the so-called "means of production," and his dependent hired men was slight. We have the English laws and regulations concerning wages from 25 Edward III (1350). These regulations fixed the maximum wage for laborers and artificers. The employer who should pay,

<sup>1</sup> "Whereas, heretofore, if there was any dispute between a master in the trade and his man (vadlett), such man has been wont to go to all the men within the city of the same trade, and then, by covin and conspiracy between them made, they would order that no one among them should work or serve his own master, until the said master and his servant or man had come to an agreement; by reason whereof the masters in the said trade have been in great trouble, and the people left unserved; it is ordained, that from henceforth, if there be any dispute moved between any master and his man in the trade, such dispute shall be settled by the wardens of the trade." W. J. Ashley, *Introduction to English Economic History and Theory* (New York, 1893), II, 104.

<sup>2</sup> *Ibid.*, p. 105.

as well as the artisan who should demand and receive, higher wages than those enacted were to be fined and severely punished. The schedules of wages were revised and changed by successive legislatures, and afford therefore an insight into the actual economic conditions and standard of living of those independent producers of the middle ages who appeal so strongly to our imagination. From the Statute of Laborers we learn that the artisans were to be sworn twice a year to observe the regulations. Their wages were settled in 1350 in the following proportion:<sup>1</sup>

*From Easter to Michaelmas, without Diet*

A master carpenter by the day . . . . .	3d
A master free mason by the day . . . . .	4d
Other carpenters by the day . . . . .	2d
Other masons by the day . . . . .	3d
Their servants by the day . . . . .	1½d
Tilers by the day . . . . .	3d
Their knaves by the day . . . . .	1½d
Other coverers of fern and straw by the day . . . . .	3d
Their knaves by the day . . . . .	1½d
Plasterers and other workers of mud-walls by the day . . . . .	3d
Their knaves by the day . . . . .	1½d

The purchasing power of these wages is indicated by the allowance made for food, *i. e.*, by the difference of the wages of artisans with and without diet. For the following century, when wages were somewhat higher, we have wage lists showing this difference, and the cost of food per day for one man or woman is taken to be from three half-pennies to two pence, usually two pence. Here is the wage list of the year 1496, with and without diet:<sup>2</sup>

<sup>1</sup> Cf. Sir Frederick Morton Eden, *The State of the Poor, or an History of the Labouring Classes in England* (London, 1797), I, 33. "In 1360 the Statute of Labourers was confirmed by Parliament, and the observance of it enforced under penalty of imprisonment for fifteen days and burning in the forehead with an iron in the form of the letter F." *Ibid.* p. 36.

<sup>2</sup> *Ibid.* p. 75.

	<i>From Easter to Michaelmas</i>	<i>From Michaelmas to Easter</i>
A free mason	} with diet 4 <i>d</i> without diet 6 <i>d</i>	} with diet 3 <i>d</i> without diet 5 <i>d</i>
A master carpenter		
A rough mason		
A bricklayer		
A master tiler		
A plumber		
A glazier		
A carver	} with diet 2 <i>d</i> without diet 4 <i>d</i>	} with diet 1½ <i>d</i> without diet 3 <i>d</i>
A joiner		
Other labourers (except in har- vest)	} with diet 5 <i>d</i> without diet 7 <i>d</i>	
Master carpenters and masons having under them six men		

*In Harvest*

Every mower by the day with diet	4 <i>d</i> , without	6 <i>d</i>
A reaper	" 3 <i>d</i> , "	5 <i>d</i>
A carter	" 3 <i>d</i> , "	5 <i>d</i>
A woman and other labourers	" 2½ <i>d</i> , "	4½ <i>d</i>

The master, we observe, when employed, is allowed three times the cost of his own food for the feeding of himself, wife and family, housing, clothing and other necessities—a standard of life to which the proletarian of today has no cause to look back with envy or regret.

The wages in other trades are similar.

	<i>With meat and drink</i>	<i>Without meat and drink</i>
A master ship carpenter having charge of the work and having men under him	5 <i>d</i>	7 <i>d</i>
Another ship-carpenter called a hewer	4 <i>d</i>	6 <i>d</i>
An able clincher	3 <i>d</i>	5 <i>d</i>
An holder	3 <i>d</i>	5 <i>d</i>
A master caulker	4 <i>d</i>	6 <i>d</i>
Another mean caulker	3 <i>d</i>	5 <i>d</i>
A caulker laboring by the tide, for every tide	4 <i>d</i>	

From Michaelmas to Candlemas the wages of these artificers are to be 1*d* a day less.

The wages gradually increased, but it is doubtful if they increased more rapidly than the cost of living. Sir George Nicholls gives us the following table :

		1495	1593	1610
Artificers without diet	{ in summer	6 <i>d</i>	8 <i>d</i>	10 <i>d</i>
	{ in winter	5 <i>d</i>	7 <i>d</i>	8 <i>d</i>
Labourers without diet	{ in summer	4 <i>d</i>	5 <i>d</i>	7 <i>d</i>
	{ in winter	3 <i>d</i>	4 <i>d</i>	6 <i>d</i>

His comment upon these figures is :

On the whole, then, it may, I think, be assumed that at the end of Elizabeth's reign, notwithstanding the increase which had taken place in the price of all commodities, the great mass of the English people were able, by a due exercise of industry, to obtain as large an amount of subsistence and physical enjoyment as at any former period.<sup>1</sup>

The alleged welfare of the laboring class of the past as compared with our proletariat of to-day may therefore be seriously questioned. But in the course of centuries certain relations and regulations had worked themselves out, which insured at least the bare existence of the master and of the laboring man. The industrial revolution brushed aside all the old regulations, substituting for them "industrial liberty." The modern proletariat is a legitimate child of this industrial liberty, which for a few decades seriously aggravated the conditions of the laboring population. The industrial transformation, the centralization of scattered industry and the resultant concentration of workingmen in large cities tended to consolidate this laboring population into a class and added greatly to its political significance.

The dynamic conception of society and its structure—the conviction that no type of social order is permanent and immutable, that the social order is subject to change and rational improvement—this conception, foreign to the modern world before the eighteenth century and the French Revolution, opened new vistas and possibilities to the laboring men as well as to their

<sup>1</sup> Sir George Nicholls, *A History of the English Poor Law in connection with the State of the Country and the Condition of the People* (new edition, New York, 1898), vol. i, pp. 204–225. See also pp. 79–81, 100, 101, 135, 155, 269–271 and 356.

masters. They were allies without distinction in their struggle in the name of democracy, against the old feudal order. But very soon the hopes and prophecies of democracy were differentiated. The interpretations put upon the word varied so greatly that those differing in its interpretation began to regard each other as belonging to a dangerous and undesirable class. Is it not natural that men who are tied during the long day to a machine in the factory, and who sleep in dingy tenements, should look forward to something better; that men who have so little else should have a wealth of hope? In their visions the laboring masses of today certainly differ from the *plebs misera* of past centuries. Their aspirations stamp them as a modern product. Their hope, industrial democracy, is based on a reasonable expectation that the political efforts of enfranchised citizens will result in ultimate success. The industrial proletariat of today is therefore not so much a new economic entity as a new politico-psychological element in our body politic.<sup>1</sup> If the sole characteristic of an industrial proletariat were poverty, there would be nothing new in the proletariat of today. The poverty in Merry

<sup>1</sup> It is almost incredible that a man like Sombart, who made a reputation as an exponent of the proletarian movement and its theory, should in his recent booklet give the following characteristic of the proletariat: "Der Proletarier weiss ebenso wenig von einer Dorf- und Geschlechtergemeinschaft wie von einer Familiengemeinschaft, ebenso wenig von einer Berufsgemeinschaft wie von einer Arbeitsgemeinschaft. Er ist vereinzelt, vereinsamt, mit seinen Genossen nicht enger verbunden als das einzelne Sandkorn mit dem andern im grossen Sandhaufen. Wie ein vom Baum gewehtes Blatt das der Wind über die Fluren treibt." Werner Sombart, *Das Proletariat: Bilder und Studien*, p. 14. If this were true, there would be no proletarian movement. In an earlier book Sombart gave us a more sensible description of the psychological makeup of the proletariat: "In the tenement houses, the huge manufactories, the public houses for meetings and for pleasures, the individual proletarian, as if forsaken by God and man, finds himself with his companions in misery again together, as members of a new and gigantic organism. Here are new societies forming, and the new communities bear the communistic stamp, because of modern methods of work. And they develop, grow, establish themselves in the mass of men, in proportion as the charm of separate existence fades from the individual; the more dreary the attic room in the suburb of the city, the more attractive is the new social centre in which the out-cast finds himself again treated as a man. The individual disappears, the companion emerges. A uniform class consciousness matures itself, also the habit of communal work and pleasure. So much for the psychology of the proletariat." Sombart, *Socialism and the Social Movement of the Nineteenth Century*, translated by Anson P. Atterbury (Chicago, 1902), pp. 14, 15.



England was appalling, but England was merry; we are told that in one reign 70,000 paupers and vagabonds were executed, but we are not told that it made any political impression. It is not uninteresting to note that two of the ablest Russian statesmen of the time of Nicholas I, Count Kisseleff and Count Cancrin, argued in favor of agricultural poverty as compared with industrial wealth, because of fear of the political significance of an industrial proletariat.<sup>1</sup> Recent history has proved that, from their point of view, they were right. Not the starving millions of peasantry but the comparatively small industrial proletariat has precipitated and carried on the Russian revolution.

In gathering scattered production modern industry has gathered and united the scattered workers; and in so far as these men work and live under the same conditions and have the same interests they are bound to develop a comradeship and fellow-feeling which could not flourish in the same degree in the past. In this sense it is quite true, that with the advent of modern industry a new economic and political element, the industrial proletariat, has made its appearance. The significance of the proletariat as a class will be discussed later. For the moment we are occupied with the Marxian view of the "proletarianisation of the masses."

In 1847, when German industry was in its beginnings, Marx informed us, in his *Manifesto*, that the proletariat class formed the great majority of the people. "All previous historical movements," he wrote, "were movements of minorities, or in the interest of minorities. The proletarian movement is the self-conscious, independent movement of the immense majority, in the interest of the immense majority."<sup>2</sup> What is meant here by the "proletariat"? Simply poor people? Not today only, but throughout the historic period of our society the poor people have constituted the overwhelming majority. But that could scarcely encourage Marx. What reason had he to suppose that

<sup>1</sup> [Cancrin] *Die Oekonomie der menschlichen Gesellschaften und das Finanzwesen, von einem ehemaligen Finanzminister* (Stuttgart, 1845), pp. 59, 60. Cf. Zablocki-Dessyatkovski, Count Kisseleff and his Times (St. Petersburg, 1882), II, 199.

<sup>2</sup> *Communist Manifesto*, p. 30.

in the future this majority would feel and act otherwise than it had felt and acted in the past?<sup>1</sup>

Marx fully realized that poverty as such creates no radical or revolutionary class. The defeat of the socialist projects of the Paris proletariat and the election of a Louis Bonaparte were ascribed by Marx himself to the poor French peasantry.<sup>2</sup> The *Lumpenproletariat*, also the pauper and dependent class, Marx himself excluded from the proletarian army, and for good reasons: "The social scum, that passively rotting mass thrown off by the lowest layers of an old society, may, here and there, be swept into the movement by a proletarian revolution; its conditions of life, however, prepare it far more for the part of a bribed tool of reactionary intrigue."<sup>3</sup> It is obvious, therefore, that Marx, in talking about the proletariat, has in mind men and women employed in capitalistic industry. Now in 1895, nearly half a century after the *Manifesto* was published, the number of men and women employed in all capitalistic enterprises, in industry, commerce and transportation, was, according to Sombart's calculation, based on the German census, 3,921,571. Deducting from this number the employees of an obviously non-proletarian grade, managers, superintendents, higher em-

<sup>1</sup> That the majority is but a beast of burden in spite of its apparent power, Marx's seventeenth-century forerunner, Campanella had said in a sonnet worth quoting:

Il popolo è una bestia varia e grossa,  
Ch' ignora le sue forze; e però stassi  
A pesi e botte di legni e di sassi,  
Guidato da un fanciul che non ha possa,  
Che' gli potria disfar con una scossa:  
Ma lo teme, e lo serve a tutti spassi,  
Nè sa quanto è temuto, chè i bombassi  
Fanno un incanto, che i sensi gl'ingrossa.  
Cosa stupenda! E' s'appicca e imprigisna  
Con le man proprie, e si dà morte e guerra  
Per un carlin di quanti egli al re dona.  
Tutto è suo quanto stà fra cielo e terra:  
Ma no'l, conosce; e se qualche persona  
Di cio l'avvisa, e luccide ed atterra.

Opere di Tommaso Campanella, scelte da Alessandro Ancona (Torino, 1854), p. 79.

<sup>2</sup> Marx, *The Eighteenth Brumaire of Louis Bonaparte*, translated by Daniel De Leon (New York, 1898), p. 71.

<sup>3</sup> *The Communist Manifesto*, p. 29.

ployees, officials *etc.*, he estimates that the rest number about three and one-half millions, or about thirteen to fourteen per cent of the population.<sup>1</sup> Accordingly, even now, a movement that should include the whole of the industrial proletariat would still be far from being a movement of the "immense majority."

But we are told that the masses are rapidly being proletarianized, that the middle class is rapidly sinking in the proletariat. "As we have already seen," so ran the statement of the *Manifesto*, "entire sections of the ruling classes are, by the advance of industry, precipitated into the proletariat, or are at least threatened in their conditions of existence. These also supply the proletariat with fresh elements of enlightenment and progress."<sup>2</sup> What makes socialism inevitable, Engels tells us, is on the one hand the concentration of capital in the possession of a few and on the other hand the concentration of the propertyless masses in the large cities.<sup>3</sup> Here is the core of Marxian socialism. Not only is the middle class gradually being wiped out, but the lesser capitalists are gradually being reduced to proletarian existences, swallowed up by the greater capitalists. Thus the capitalistic band becomes smaller and smaller, while the army of the proletariat grows by thousands and by millions. And while capital is thus being concentrated in few hands, industry becomes more and more socialized on a national, even international basis. A socialized mode of production is then already in existence, and all that remains for the complete establishment of a socialist commonwealth is the expropriation of the few capitalists by the mass of the people. Socialized production is transformed by a simple political act into socialized property. But, on so important a point, let Marx speak for himself:

As soon as this process of transformation has sufficiently decomposed the old society from top to bottom, as soon as the laborers are turned into proletarians and their means of labor into capital, as soon as the

<sup>1</sup> Sombart, *Das Proletariat*, p. 5.

<sup>2</sup> The Communist Manifesto, p. 28.

<sup>3</sup> Engels, *Landmarks of Scientific Socialism* (Anti-Duehring), translated by A. Lewis (Chicago, 1907), p. 179.

capitalist mode of production stands on its own feet, then the further socialization of labor and further transformation of the land and other means of production into socially exploited and therefore common means of production, as well as the further expropriation of private proprietors, takes a new form. *That which is now to be expropriated is no longer the laborer working for himself, but the capitalist exploiting many laborers. This expropriation is accomplished by the action of the immanent laws of capitalistic production itself, by the centralization of capital. One capitalist always kills many.*<sup>1</sup> Hand in hand with this centralization, or this expropriation of many capitalists by few, develop, on an ever-extending scale, the coöperative form of the labor-process, the conscious technical application of science, the methodical cultivation of the soil, the transformation of the instruments of labor into instruments of labor only usable in common, the economizing of all means of production by their use as the means of production of combined, socialized labor, the entanglement of all peoples in the net of the world-market, and with this, the international character of the capitalist régime. *Along with the constantly diminishing number of the magnates of capital,*<sup>2</sup> who usurp and monopolize all advantages of this process of transformation, grows the mass of misery, oppression, slavery, degradation, exploitation; but with this too grows the revolt of the working class, a class always increasing in numbers and disciplined, united, organized by the very mechanism of the process of capitalist production itself. The monopoly of capital becomes a fetter upon the mode of production which has sprung up and flourished along with and under it. Centralization of the means of production and socialization of labor at last reach a point where they become incompatible with their capitalist integument. This integument is burst asunder. The knell of capitalistic private property sounds. The expropriators are expropriated . . . The transformation of scattered private property, arising from individual labor, into capitalistic private property is, naturally, a process incomparably more protracted, violent and difficult than the transformation of capitalistic private property, already practically resting on socialized production, into socialized property. In the former case, we had the expropriation of the mass of the people by a few usurpers; in the latter, we have the expropriation of a few usurpers by the mass of the people.<sup>3</sup>

<sup>1</sup> Italics are mine.

<sup>2</sup> Italics mine.

<sup>3</sup> Marx, Capital (English translation, 4th edition, London, 1891), I, 788, 789.

If Marx has correctly formulated the economic tendency, if capital tends invariably towards concentration in the hands of a narrowing circle of magnates while the rest of the population is rapidly being proletarianized, it is really marvelous that a social revolution has not yet overtaken this iniquitous system, to which practically the whole of the people must be opposed. If the capitalistic class, which alone has any real interest in the protection of property, is rapidly diminishing; if the future has nothing in store for the self-respecting middle class but misery and degradation; then indeed it takes no prophet to foretell that the title of the few magnates to their wealth is not worth the paper on which it is written. Then indeed are the days of the present economic organization numbered; and Bebel was quite right when, in addressing his party convention in 1891, he declared: "Yes, I am convinced that the realization of our ultimate aims is so near that there are but few in this hall who will not live to see that day."<sup>1</sup>

Let us however test the abstract proposition by the facts. Let us take, for example, the Prussian income statistics. The Prussian statistics, as we all know, are relatively the most accurate in existence.<sup>2</sup> In Prussia we have data of a graduated income tax for over half a century, coinciding with the period of the most rapid industrial transformation. These data, it is obvious, are especially valuable for our purpose.

From the point of view of income the German population is usually divided into three groups: a lower class, a middle class and an upper class. Each of these three classes are subdivided into three strata: a lower, a middle and an upper. They represent the following individual yearly incomes:

<sup>1</sup> Protokoll über die Verhandlungen des Parteitag der sozialdemokratischen Partei Deutschlands, abgehalten zu Erfurt, 1891, p. 172.

<sup>2</sup> All the figures given below are taken from the two monographs of Adolph Wagner, published in the *Zeitschrift des Königlich Preussischen Statistischen Bureau* (Berlin, 1904), vol. 44, pp. 41-122; and 229-267: "Zur Methodik der Statistik des Volkseinkommens und Volksvermögens, mit besonderer Berücksichtigung der Steuerstatistik" and "Weitere statistische Untersuchungen über die Verteilung des Volkseinkommens in Preussen auf Grund der neuern Einkommensteuerstatistik (1892-1902)."

I. Lower class.	lower stratum up to		500 marks. <sup>1</sup>
	middle	"	500 to 900 "
	upper	"	900 to 2100 "
II. Middle class.	lower		2,100 to 3,000 "
	middle	"	3,000 to 6,000 "
	upper	"	6,000 to 9,500 "
III. Upper class.	lower		9,500 to 30,500 "
	middle	"	30,500 to 100,000 "
	upper	"	over 100,000 "

The following table shows, at ten periods during the fifty years 1853-1902, the absolute number of persons in the upper stratum of the lower class and the lower stratum of the middle class, and the absolute number and percentage of persons in the middle and upper strata of the middle class and in the upper class. All the figures given in the first three columns are thousands (000 omitted).

YEAR	POPULATION	NUMBER TAXED ON INCOMES		PERCENTAGE TAXED ON INCOMES OVER 3000 MARKS
		900 TO 3000 MARKS	OVER 3000 MARKS	
1853 . . . .	16,870	825	44.4	0.263
1867 . . . .	19,157	963	72.9	0.380
1870 . . . .	23,909	1,319	106.4	0.445
1873 . . . .	24,644	1,370	123.3	0.500
1878 . . . .	25,748	1,356	167.3	0.650
1882 . . . .	26,820	1,304	162.6	0.683
1891 . . . .	29,456	1,743	254.3	0.863
1892 . . . .	29,895	2,119	316.9	1.060
1896 . . . .	31,349	2,321	331.1	1.057
1902 . . . .	35,551	3,310	449.7	1.301

The absolute number of middle and upper-class tax-payers in the same years are given in the following table. The figures in the first column are thousands.

<sup>1</sup> Incomes below 500 marks are now extremely rare in Germany; they represent as a rule the lower agricultural laboring class. In the 500-900-marks group belong the poor peasantry and the poorly-paid workingmen. The 900-2100-marks group includes clerks and salesmen, skilled workingmen, younger officials, public school teachers, well-to-do peasants, artisans and petty store and saloon-keepers. Specially skilled mechanics are often found in the lower stratum of the middle-class group with incomes of 2100-3000 marks.

YEAR	MIDDLE CLASS INCOMES				UPPER CLASS INCOMES	
	2100 TO 3000	3000 TO 6000	6000 TO 9500	9500 TO 30,500	30,500 TO 100,000	Over 100,000
1853 ..	46.9	32,003	7,239	4,463	640	62
1867 ..	81.1	50,966	12,224	8,211	1,348	144
1870 ..	112.4	75,851	17,434	11,027	1,911	199
1873 ..	119.6	85,603	20,813	13,650	2,815	423
1878 ..	153.5	121,071	25,350	17,457	3,054	375
1882 ..	150.0	131,310	27,958	19,580	3,403	434
1891 ..	185.1	180,862	38,275	28,776	5,442	915
1892 ..	223.4	204,544	55,561	46,092	9,034	1658
1896 ..	260.1	214,960	57,859	47,308	9,265	1699
1902 ..	321.3	291,341	77,638	64,737	13,205	2762

We see from these figures how utterly unwarranted is the idea of the proletarianization of the middle class. With all due allowance for the increased cost of living, we find the number of the well-to-do absolutely and relatively to the whole population on the increase. The same is true about the very rich.

The following little table gives the growth of the multimillionaire incomes in Prussia during the same period.

YEAR	INCOMES			
	100,000 TO 500,000	500,000 TO 1,000,000	1,000,000 TO 2,000,000	OVER 2,000,000
1853 .....	60	2		
1867 .....	135	9		
1870 .....	187	12		
1873 .....	391	32		
1875 .....	399	18	4	4
1882 .....	407	22	2	3
1891 .....	859	43	8	5
1892 .....	1555	72	27	4
1896 .....	1596	76	20	7
1902 .....	2594	108	44	16

Marx's formula "One capitalist always kills many," can hardly be regarded as a statement of fact. In 1854 Berlin had only six men possessing over three million marks; in 1900 it had 639 in

this class. In 1854 there were in Berlin 23 men worth a million and a half each; in 1900 there were 1323 in this group. And with all due respect to German honesty, it is well to remember that men are not likely to overestimate either their income or the value of their property when it comes to paying taxes.

The English income statistics present greater difficulties, owing to their arrangement in schedules, every taxpayer declaring his income on different schedules according to its character and source. If we take the incomes assessed under Schedule D, incomes from trades and professions, we find for the decade 1877-1886 the following changes:

INCOMES	1877	1886	PERCENTAGE OF CHANGE
Between £150 and £1000 . . .	317,939	379,064	+19.26
£1000 and upwards . . . . .	22,848	22,298	-2.40

These figures led Goshen, then chancellor of the Exchequer, to enunciate the thesis of a decentralization of wealth. It was however a period of depression. The data of tax assessments under Schedule D for the following decade do not show the same ultra-democratic tendency.

INCOMES	1888-89	1893-94	PERCENTAGE OF CHANGE
£150 and under £500 . . . . .	347,520	362,048	+4.18
£500 and under £1000 . . . . .	31,084	32,737	+5.32
£1000 and under £5000 . . . . .	18,665	20,431	+9.46
£5000 and over . . . . .	2,965	3,149	+6.21

INCOMES <sup>1</sup>	1894-95	1897-98	PERCENTAGE OF CHANGE
Exceeding £160 and not exceeding £500 .	278,370	306,200	+10.00
Exceeding £500 and not exceeding £1000 .	26,790	27,779	+ 3.69
Exceeding £1000 and not exceeding £5000 .	17,146	18,113	+ 5.64
Exceeding £5000 and over . . . . .	2,785	3,141	+ 2.78

<sup>1</sup> Note the change of the lower limit from £150 to £160.



These fluctuations of incomes from trades and professions under Schedule D do not substantiate Goshen's premature thesis of the decrease of great wealth, but they undoubtedly indicate a steady growth of the middle class. It must be borne in mind that these figures do not include the incomes of the taxpayers as shareholders of companies, whose profits are assessed in the lump. And the army of stockholders presents a steady and enormous growth. In 1887 Goshen wrote:

I have examined the figures of twelve companies, taken entirely at random—an insurance company, a water-works company, an industrial company, and so forth, and I have compared their capital and the number of shareholders ten years ago with the capital and the number of shareholders at present. Here is the result: the total paid-up capital of the twelve companies in 1876 was £5,171,649; in 1886 it had become £6,501,582, an increase of 25 per cent. But the shareholders in them had increased during the same ten years from 11,667 to 20,083, an increase of 72 per cent.<sup>1</sup>

Here we come to a point which Marx has obviously overlooked: the economic significance of the joint stock company. The assumption that centralization of industry signifies centralization of ownership and capital is false. The opposite is the economic tendency; and this fact is acknowledged by such enlightened and scholarly socialists as Eduard Bernstein.<sup>2</sup> In England, in recent years, numbers of smaller firms have been merged in larger stock companies. On April 1, 1904, there were 37,287 such stock companies registered in England, many of these companies representing consolidations of a number of industrial or commercial firms, but the organization as joint stock companies meant a wider distribution of both income and ownership. Here is an example:

<sup>1</sup> Viscount Goshen, *Essays and Addresses on Economic Questions* (London, 1905), pp. 231, 232.

<sup>2</sup> Eduard Bernstein, *Die heutige Einkommensbewegung und die Aufgabe der Volkswirtschaft* (Berlin, 1902). See especially chapter iii (pages 24-32) on "Die Konzentrierung der Unternehmungen und die Dezentralisierung der Eigentumstitel."

NAME OF COMPANY	CAPITALIZATION	STOCKS RETAINED BY THE VENDORS	NUMBER OF FIRMS AMALGAMATED	NUMBER OF STOCKHOLDERS
Fine Cotton Spinners . . . .	£4,000,000	£1,333,350	31	3,934
Bradford Coal Dyers . . . .	3,000,000	1,000,000	22	10,731
Bradford Coal Merchants . .	199,790	119,790	8	237
Aberdeen Comb Works . . .	300,000	133,333	3	677
Cooper, Cooper and Johnson.	340,000	70,000	3	2,082
	£7,839,790	£2,656,473	67	17,661

Instead of 67 firms, 17,661 stockholders. True, about one-third of stock, probably sufficient to ensure the control of the enterprises, was retained by the original firms, but the remaining two-thirds were distributed. The members of the original 67 firms have probably become employees of the five new companies; but the change in their position is hardly to be viewed as a case of "proletarianization," since, in addition to their salaries as company employees, they are receiving dividends on two and a half millions' worth of stock. The above example is characteristic of the whole recent industrial development. In five English brewing concerns we find that the stock is held by 27,052 persons. "Thomas Lipton," the grocery trust, has 74,262 shareholders; "Spiers and Pond" in London has 4650 stockholders, and of these but 550 hold more than £500 worth of stock.

The development of stock companies explains why the number of moderate incomes from trades and professions, taxed under Schedule D, has not recently increased as rapidly as in the seventies and eighties. A large number of small tradesmen formerly assessed under Schedule D are now assessed as employees of public companies under Schedule E.<sup>1</sup> If we exclude from this schedule the eighty-odd thousand army, navy and civil-service employees, we find that the number of employees of corporate bodies and of public companies increased more than one hundred per cent in fifteen years. The figures are:

<sup>1</sup> Goshen, *op. cit.*, p. 249.

1888-89 . . . 130,862	1894-95 . . . 155,752 <sup>1</sup>	1898-99 . . . 223,391
1893-94 . . . 166,161	1897-98 . . . 187,240	1902-03 . . . 272,500

The same rapid growth of the army of stockholders is to be found in the United States. Some of our principal railroads, for example, show the following increases in the numbers of shareholders during the last four years:

	1904	1908
Pennsylvania . . . . .	42,100	59,600
Atchison . . . . .	17,800	25,000
New York Central . . . . .	11,700	22,000
Union Pacific . . . . .	14,200	15,000
Southern Pacific . . . . .	4,400	15,000
Great Western . . . . .	5,900	10,000
Erie . . . . .	4,300	10,000
Delaware and Hudson . . . . .	3,800	5,800
Norfolk and Western . . . . .	2,900	4,500
Chesapeake and Ohio . . . . .	1,500	2,600

The American railroads count today about half a million stockholders as against 350,000 five years ago. The same decentralizing tendency is discernible in our industrial companies. The United States Steel Corporation counts today about 110,000 stockholders; the Bell Telephone, 24,100; American Sugar, 20,000; Amalgamated Copper, 18,000; Pullman, 13,000. The total number of American shareholders is now estimated to be about 2,000,000.

Thus, wherever we look, we find a steady increase of the middle class. In 1851 there were in England about 300,000 persons with an income of £150-1000, in 1881, about 990,000. While the population during that period increased in the ratio of 27:35, the English middle class increased in the ratio of 27:90, *i. e.* 233 per cent. In 1898 Bernstein estimated the number of middle-class taxpayers at a million and a half.<sup>2</sup> Not only has the middle class, whose extermination is so essential to the triumph

<sup>1</sup> This decrease is due to the raising of the exemption limit from £150 to £160.

<sup>2</sup> Bernstein, *Die Voraussetzungen des Sozialismus und die Aufgaben der Sozialdemokratie* (Stuttgart, 1899), p. 49.

of socialism, greatly increased,<sup>1</sup> but so have the numbers of co-partners of the great capitalistic enterprises—the army of stockholders, enlisted in the defence of capital and of vested interests.\* It has been argued that Marx's analysis of our capitalist system was based on the assumption of free competition and failed to take into account the economic effects of corporate methods of business, and that, if competition were unchecked and there were no joint stock companies, the concentration of capital in the hands of the few and the proletarianization of the middle class would be unavoidable. Possibly this is true; but it is not particularly useful to consider how different things would be if things had been different. The fact remains that the economic development has taken a turn which Marx did not foresee; and Karl Kautsky remained a true exponent of orthodox Marxism, when he exclaimed, at the Stuttgart Socialist Convention:

Yes, if that is true, then not only is the day of our victory ever to be postponed, but we can never reach our aim. If capitalists are on the increase and not the propertyless, then the development is setting us back further and further from our goal, then capitalism intrenches itself and not socialism, then our hopes will never materialize!<sup>2</sup>

VLADIMIR G. SIMKHOVITCH.

(*To be continued.*)

<sup>1</sup> "Wie steht es nun aber thatsächlich mit der Einkommenbewegung auf die Classe der Reichen? Soweit wir eine Statistik darüber haben, zeigt sie uns in allen modernen Ländern *statt einer Verengerung eine Erweiterung des Kreises der Reichen.*" Bernstein, *Die heutige Einkommenbewegung* (1902), p. 21.

<sup>2</sup> "Das Heer der Aktionäre bildet heute in jeder Hinsicht, politisch und sozial, die Schutzgarde des Kapitals. Was wäre die Handvoll Magnaten ohne den Hunderttausende zählenden Tross der mittleren und kleineren Aktionäre? Was könnten sie gegen die öffentliche Meinung? Nichts! Der erste Sturm würde ihren Widerstand brechen. Aber zusammen mit den Halben-, Viertels-, Achtelsmagnaten bilden oder beherrschen sie das, was man die öffentliche Meinung nennt." Bernstein, *Die heutige Socialdemokratie in Theorie und Praxis* (München, 1906), p. 32.

<sup>3</sup> Protokoll über die Verhandlungen des Parteitages der sozialdemokratischen Partei Deutschlands, ab gehalten zu Stuttgart, 1898, p. 128.

## THE MANORIAL SYSTEM AND THE FRENCH REVOLUTION

### I. RECENT PUBLICATIONS

“IT is the play of economic interests, of social forces,” M. Jaurès has said,<sup>1</sup> “which determines the movement of history and which gives it a meaning.” On this basis the history of the French Revolution, like most other history, is being rewritten;<sup>2</sup> and no aspect of it has come into greater prominence than the economic condition of the peasantry—the manorial system and the circumstances attending its overthrow. The recent publication of valuable documents, of numerous monographs and magazine articles suggests the pertinence of reviewing the conclusions which have been reached on this subject and the points upon which the writers still disagree.

A word may be said, first of all, as to the sources from which our new light comes. Anyone who has been accustomed to refer to Taine or Louis Blanc or Carlyle for information on such economic questions will realize, when he has looked over the materials now at our command, how great our obligations are to the laborious researches of the new historical school. The French government has long been active in the publication of historical material. Its *Comité des travaux historiques et scientifiques* has for years done notable service; and in December, 1903, the minister of public instruction appointed a commission which should supervise the printing of documents relative to the economic phases of the Revolution.<sup>3</sup> The chairman of that commission is M. Jean Jaurès, to whose initiative its formation was due; and it includes forty-four members, men like MM. Esmein, Levasseur, Sagnac and Seignobos, whose names are familiar to American students. Twenty-three works are completed or in preparation.

One of the most notable of these has just appeared under the title *Les Comités des droits féodaux et de législation et l'abolition du régime seigneurial, 1789-1793*.<sup>4</sup> In this bulky volume MM. Sagnac and Caron have included about one-twelfth of the documents which passed

<sup>1</sup> *La Révolution française*, XLVI, 452.

<sup>2</sup> For recent developments in the literature on this subject see an article by J. H. Robinson in the *American Historical Review*, April, 1906.

<sup>3</sup> For details regarding the commission see P. Caron in *Revue d'histoire moderne et contemporaine*, VIII, 545-549.

<sup>4</sup> Paris, 1907.

through the hands of the committees mentioned in the title. These have been divided chronologically into three groups, relating to the most important legislation of 1789, 1790 and 1792, and at the same time they have been classified methodically under such headings as *mainmorte, domaine congéable, corvée*. By way of further assistance to the reader, the editors have provided not only the usual table of contents but a list of the documents (giving date, title, source) and, finally, an alphabetical index.

It cannot be said, however, that this volume throws any new light on the difficult questions of the period. To historians the documents are not new. They were used freely by M. Karéw in 1879 and by M. Sagnac in 1898. But to students and writers to whom the national archives are inaccessible the value of the work is great indeed. It gives striking indications of the temper with which the country received the decrees affecting manorial rights; some insight into the varying motives which led *seigneur* or *censitaire* to oppose them; and illustrations of the great practical difficulties, often on minute technical points, which stood in the way of legislation. The documents fall roughly into two classes: (1) those emanating from the committees, the decrees and the decisions on particular questions submitted for settlement, and (2) petitions and addresses, suggestions and complaints from manorial lords, peasants, officials, municipalities. Obviously there is some difference in their value. The former are most essential to a comprehension of the complicated character of the manorial legislation. They are pronouncements and applications of law. The latter are merely expressions of opinion. But because of the uniformity of tone of the various documents when compared, and because of the consistency of their evidence with the results of investigations among the administrative papers of *intendants*, in the *cahiers etc.*, we are justified in regarding them as one of the most trustworthy and important sources for the economic and social history of the period. As a complement to the *cahiers* of 1789—the statements of grievances which were compiled in all the parishes of France, recast in the electoral districts and sent to Versailles—they have a peculiar interest. When the *cahiers* were drawn up, the future must have looked to the peasant very uncertain. He feared that, if the lords came through triumphantly, indiscreet utterances would be visited with “incessant and odious revenge.” We hear, to use the expression of M. Brette, the voice of men who have struggled long, who have suffered long, but who cannot say all.<sup>1</sup> In the documents of the feudal committees, on

<sup>1</sup> *Révolution française*, LII, 467.

the other hand, the voice has gained the full note of confidence. No longer is the Revolution in doubt.

The commission has also undertaken to produce a full edition of the *cahiers*. It is true that seven volumes of the *Archives parlementaires* are devoted to them; but the editing was so careless that no serious work can be based upon them,<sup>1</sup> and the *cahiers* selected are for the most part those of the electoral districts, *i. e.*, those of the parishes and towns, in a revised, simplified and mutilated form. It has been estimated that a complete edition of the *cahiers* would fill more than a hundred quarto volumes instead of seven.<sup>2</sup> The task which the government commission has before it is a heavy one. So far, however, seven volumes have appeared, and these have justified in every way the high expectations which were entertained.<sup>3</sup>

The *cahiers* have suffered much from fetich worship. They have also had to stand against much hostile criticism. M. A. Wahl of Freiburg, a reactionary who shows no love for the Revolution, has attacked them at many points, but chiefly as interested exaggerations inspired by agitators whom he compares with the German social democrats of to-day. They made exceptions appear to be general rules, hoping that exaggeration of their miseries would bring more rapid and more complete relief.<sup>4</sup> M. I. Loutchisky, whose method is statistical, discarded the *cahiers* in his work on small properties.<sup>5</sup> Finding them inexact, lacking in precision, he preferred to use the official returns of assessors and taxgatherers. He seems to have erred in putting too much faith in the official seal. All the statistics of the old régime are disordered and unreliable,<sup>6</sup> and fiscal documents may have taken a good deal of their color from carelessness as well as corruption. Although the scepticism of MM. Wahl, Loutchisky and others has had the salutary effect of inducing a more critical attitude toward the *cahiers*, they remain, as M. Sagnac said recently,<sup>7</sup> "the most important and precious monument of our history and the most authentic testament of the old French society." But faith in them falls far short of super-

<sup>1</sup> A. Brette in *Révolution française*, XLVII, 26.

<sup>2</sup> *Ibid.*, p. 23.

<sup>3</sup> These are the *cahiers* of the bailliage of Orleans, edited by C. Bloch in two volumes; of the *sénéchaussée* of Angoulême and the *siège royal* of Cognac, edited by P. Boissonnade; of the bailliage of Cotentin, edited by E. Bridrey; of the bailliage of Châlons-sur-Marne, edited by G. Laurent; of the *Sénéchaussée* of Marseille, edited by J. Fournier; and of the *Sénéchaussée* of Nîmes, edited by E. Bligny-Bondurand.

<sup>4</sup> A. Onou in *Révolution française*, XLIX, 388 *et seq.*

<sup>5</sup> *Ibid.*, XLII, 340; XLIX, 387.

<sup>6</sup> *Ibid.*, XXXIV, 372; XLIX, 413.

<sup>7</sup> *Revue d'histoire moderne*, VIII, 349.

stition. "We do not have to use the *cahiers* as a sole source," says M. Sée, "nor even to consider them as the most certain source."<sup>1</sup> This dispassionate spirit animates most of the contemporary writers who have tried to reconstruct the economic life of the peasant during the Revolution.<sup>2</sup>

<sup>1</sup> *Révolution française*, XLVII, 46.

<sup>2</sup> As will be seen from Karéïew's article in *Révolution française*, XLII, 321 *et seq.*, Russian names are prominent among these writers. To the Russians is due, in great part, the honor of having recommended and followed the true historical method in this field, of having searched in the archives with laborious zeal for the traces of the social facts which they wished to describe. First upon the field was M. N. Kartiew, whose work, *Les Paysans et la question paysanne en France dans le dernier quart du xviii<sup>e</sup> siècle*, appearing in 1879, was translated from the Russian twenty years later. It was epitomized by A. Maury in the *Journal des savants*, July-Sept., 1880, and reviewed more recently in the *English Historical Review*, XVI, 178-182, and in the *Revue historique*, LXXXVI, 382-386. The book discusses exhaustively the position of the peasant under the manorial system and the effects of the revolutionary legislation. It can no longer be accepted as a guide, because our knowledge has been greatly extended during the last quarter of a century and some of the author's conclusions have been overthrown. But it still enjoys a degree of authority rarely accorded to a pioneer work. Another writer, M. Maxime Kovalevsky, who is best known for his five-volume work on the origins of modern democracy, has published several important articles in the *Revue internationale de sociologie*, IX, 489-514; XIII, 577-620 and 714-765. These articles deal with the economic and social condition of France on the eve of the Revolution. The work of M. Loutchisky has been confined to a narrower field, the investigation of the extent of peasant property. Of his latest book, dealing with the possessions of the peasants in France on the eve of the Revolution, principally in the Limousin (Kiev, 1905), M. Sagnac says: "It renews or rather creates the history of landed property in France in the eighteenth century." *Revue d'histoire moderne*, III, 171. This work has not been translated, but fortunately a long analysis appeared in *Revue d'histoire moderne*, III, 156-171. See also Loutchisky's *La Petite Propriété en France avant la Révolution* (1897) and his article in the *Revue historique*, LIX, 70-107. We should not forget M. A. Onou (formerly a pupil of Kartiew), who, in addition to his Russian work, has published an important article on the value of the *cahiers* in *Révolution française*, XLIX, 385-417.

The number of French writers is naturally large. Among them may be noticed: M. Jaurès, who has taken full advantage of special investigations and whose *Histoire socialiste* (reviewed by C. A. Beard in *POLITICAL SCIENCE QUARTERLY*, XXI, 111-120) has vindicated the right of economic questions to a commanding place in general history; M. Edme Champion, who has written an excellent little book on *La France d'après les cahiers de 1789* (Paris, 1897); M. Henri Sée, who has made an intimate study of *Les Classes rurales en Bretagne du xvi<sup>e</sup> siècle à la Révolution* (1906), and who has published an article under the same title in the *Revue d'histoire moderne*, VI, 309-324, examined the Breton parish *cahiers* in *Révolution française*, XLVI, 487-513, and XLVII, 28-46, and explained the general significance of the manorial system in *Revue d'histoire moderne*, X, 173-191; M. C. Bloch, whose attention has been concentrated in a similar way on Orleans, and who has



## II. THE MANORIAL SYSTEM IN 1789

The manorial system of the middle ages was part of the feudal system;<sup>1</sup> part, that is, of an organization which had government as its chief object. The feudal hierarchy, conducting the business of administration, justice and war, rested for support, as all governments must do, upon the mass of the people. It was the labor of the serf upon the landed estates of the governing class, the manors, that paid the expenses of government. And the serf, besides being bound to labor for his lord and make him certain payments in kind, was subject to numerous restrictions, such as being under the lord's jurisdiction and being unable to leave the manor or marry without his lord's consent.

Now in 1789 feudalism was not at all what it had been five hundred years before. The chief alteration lay in the supplanting of aristocratic by monarchic government. The king had steadily absorbed the political and judicial powers of the nobles and extended the imposition of royal taxes. The peasants therefore, besides supporting the church, found themselves subject to a double exploitation. They were supporting two governments: the actual, effective government of the king, levying its *taille*, its poll-tax and its twentieths, and the government *emeritus* of the feudal nobles who, having dropped out of politics, devoted themselves with great assiduity to social relaxations and collected *cens* and mutation fines as of old to pay for their dinners and their dances.

Viewed in this light, the situation of the peasant seems hard indeed, almost intolerable. But in certain important respects the relations between manorial lord and serf had been greatly modified. As M. Kovalevsky has shown, the money payments into which the labor dues had been commuted (especially in the north),<sup>2</sup> had steadily declined in value while the revenues from the peasant's holdings had risen.<sup>3</sup>

edited the cahiers of the bailliage of Orleans and published an article on the division of landed property in the *Revue d'histoire moderne*, II, 246-267; M. Paul Viollet, who contributed to the Cambridge Modern History, vol. viii, a useful chapter on French law; M. Ph. Sagnac, in whose *Législation civile de la Révolution française* will be found the most authoritative account of the abolition of the manorial system (see also his article on the division of the soil during the Revolution in *Revue d'histoire moderne*, V, 457-470, and the edition of the cahiers of Flandre Maritime which he published with Saint-Leger in 1906); and MM. Aulard, Brette and Caron, who are regular contributors to the historical reviews.

<sup>1</sup> Sée, almost alone among the French writers, makes the distinction between *feodal* and *domanial*; *Stances et travaux de l'Académie des Sciences*, CLI, 508.

<sup>2</sup> Kovalevsky, *Revue internationale de sociologie*, IX, 500; Sée, *Revue d'histoire moderne*, VI, 314, and X, 176.

<sup>3</sup> Kovalevsky, *loc. cit.* and p. 496.

Again, the *cens* which he paid annually was indistinguishable from the ordinary rents, except in origin ; and on the fourth of August not a voice was raised in favor of confiscation, not even on the extreme Left where sat Pétion and Robespierre. Finally, the serf had almost everywhere emancipated himself from those obnoxious and humiliating obligations which were the distinguishing mark of serfdom. He was now a *censitaire*, a *métayer*, not a serf.

Yet serfs of a kind still remained, chiefly in Nivernois, Bourbonnais and the eastern provinces which had been acquired by conquest.<sup>1</sup> They numbered perhaps 300,000. What their circumstances were it is not easy to determine ; to define their legal status would be a perilous enterprise for any writer. The infinite varieties of servile condition puzzled the ablest contemporaries. Montesquieu, in defining the two kinds of servitude, real mortmain and personal mortmain, thought that the first bound the peasant to the land, the second to the person of his lord.<sup>2</sup> This is corrected by M. Karéïew.<sup>3</sup> The peasant subject to personal mortmain was bound to the soil, unable to leave it or become free ; real mortmain, by far the more common variety, affected the peasant only while he held the land and did not prevent his leaving it.<sup>4</sup> Personal mortmain was comparatively rare. Rare also was the right of *formariage* which made marriages between persons of different manors depend on the consent of their lords.<sup>5</sup> A form of serfdom which did not, as a rule, bind the peasant to the soil or limit freedom of marriage was not the serfdom of the middle ages. It was serfdom on its way to extinction. There appears to have been at this time only one test of servile status capable of a general application—the absence of property right in the land.<sup>6</sup> The serf could neither alienate nor sell his holding ; and if direct heirs failed or even if his children did not live with him, the holding reverted to the lord.<sup>7</sup> “By 1789, in most cases,” says M. Viollet,<sup>8</sup> “the question whether a man was a serf or a freeman was of much more importance to his heirs than to himself.”

Although this modified serfdom was for the most part localized in eastern France and existed entirely as an exception, it does not follow

<sup>1</sup> Sagnac, *Législation civile*, p. 60; Champion, *La France d'après les cahiers*, chap. x; Karéïew, pp. 19–24. See also Sée, *Les Classes rurales en Bretagne*, p. 22.

<sup>2</sup> *Esprit des lois*, livre xv, chap. 10.

<sup>3</sup> Karéïew, p. 20.

<sup>4</sup> The two groups insensibly shaded into each other. Karéïew, p. 24.

<sup>5</sup> Sée, *Stances et travaux de l'Académie*, CLI, 512; Karéïew, p. 25.

<sup>6</sup> Sée, *loc. cit.*; Karéïew, p. 22.

<sup>7</sup> Sée, *loc. cit.*

<sup>8</sup> *Cambridge Modern History*, VIII, 714.

that the prevalent tenure was freehold. There were some allodial properties; M. Kovalewsky has proved it from administrative correspondence, the debates of the provincial assemblies and the rural *cahiers*; <sup>1</sup> but when M. Jaurès says <sup>2</sup> that there existed already "innumerable agricultural properties exempt from all feudal right," he is not in line with the specialist authorities. Freehold, like servile tenure, was only an exception.<sup>3</sup> The fact is that, while the peasants had freed their persons and acquired a qualified right of property in the land, the land was still weighted with manorial rights and charges. The jurists recognized a double proprietorship. According to them there could be no land without a lord.<sup>4</sup> The lord, once full proprietor as against the serfs, still retained the *domaine direct*, by virtue of which he received certain payments in kind and in money. The peasant, on the other hand, having acquired a prescriptive right to his little plot of land,<sup>5</sup> enjoyed the usufruct, the *domaine utile*.<sup>6</sup> The jurists regarded him as a proprietor; and it is in this qualified sense that Arthur Young and de Tocqueville refer to the great number of peasant proprietors.

Regarding this matter of small peasant holdings there has been much investigation. Tocqueville, who bases his conclusions on the returns of the land-tax, was the first to maintain that the diffusion of property among the peasants was almost as great before the Revolution as after it.<sup>7</sup> Today this view seems to be firmly established. "Most of the peasants are small proprietors," says M. Sée, who is writing of Brittany.<sup>8</sup> M. Bloch, speaking of Orleans,<sup>9</sup> and M. Loutchisky, speaking of the Limousin villages,<sup>10</sup> hold very much the same opinion. When men of such eminence in this field as MM. Sagnac,<sup>11</sup> Sée,<sup>12</sup> Bloch and Loutchisky are of one mind, we need not hesitate to follow them. M. Karéiew has made his submission; and though his book remains unchanged, a recantation will be found in the preface to the French edition.<sup>13</sup> Against this formidable weight of opinion MM. Champion and Kovalewsky stand out practically alone. The latter condemns, and with some force, the evidence on which Loutchisky bases his estimate of five million proprietors.<sup>14</sup> M. Champion tries to prove the insignificance

<sup>1</sup> *Revue internationale de sociologie*, XIII, 714, 715. <sup>2</sup> *Histoire socialiste*, I, 19.

<sup>3</sup> Sagnac, p. 59; Karéiew, p. 33.

<sup>4</sup> Karéiew, p. 35.

<sup>5</sup> Sée, *Stances et travaux de l'Académie*, CLI, 512.

<sup>6</sup> Viollet, in *Cambridge Modern History*, VIII, 718, 719.

<sup>7</sup> *L'Ancien Régime*, livre II, chap. I.

<sup>8</sup> *Revue d'histoire moderne*, VI, 313.

<sup>9</sup> *Ibid.*, II, 266.

<sup>10</sup> *Ibid.*, III, 165.

<sup>11</sup> *La Législation civile*, p. 58.

<sup>12</sup> *Révolution française*, LI, 370.

<sup>13</sup> Karéiew, p. x.

<sup>14</sup> *Revue internationale de sociologie*, XIII, 740.

of peasant property from an examination of the *cahiers*.<sup>1</sup> If there were many small proprietors, he says, where were their lands? And he proceeds to show that in many cases the lord held from one-third to one-half of the land; in "not a few" cases almost all of it. But this argument, even if the evidence which supports it had not been attacked by M. Loutchisky,<sup>2</sup> merely shows that the average peasant did not hold *much* land. And to assert that most of the peasants were proprietors<sup>3</sup> does not necessarily imply that they held most of the land. It does not imply that M. Kovalewsky is wrong when he says: "We give up all effort to determine, even approximately, the extent of the small rural property before the Revolution, and we continue to maintain that the greater part of the lands were held as property by the privileged orders and the bourgeoisie of the towns."<sup>4</sup> In fact, the peasant's holding was small, sometimes ridiculously small, perhaps little more than the cottage itself.<sup>5</sup> The result was that the *censitaire* had to supplement the revenue of his land by becoming either a *métayer* or a day-laborer.<sup>7</sup> By the system of *métayage* the lord received usually a half, sometimes a third or a fourth, of the harvest.<sup>8</sup> It was so prevalent that Karéw calls it "the type of the tenure of land by the French peasant." With the growth of large farming the demand for day-laborers increased. They numbered, says M. Sée,<sup>9</sup> a quarter or a fifth of the rural population and were the most wretched class. According to M. Sagnac<sup>10</sup> they were unemployed for a third of the year. *C'est la misère*. To sum up, the peasant proprietor, often a *métayer* or a day-laborer as well, was possessed of a holding usually small in extent and weighted with manorial rights.

Only a vague indication of these rights can be given here.<sup>11</sup> A closer examination would reveal the most amazing complexities and diversity—

<sup>1</sup> La France d'après les cahiers de 1789, chap. x.

<sup>2</sup> *Revue d'histoire moderne*, III, 158.

<sup>3</sup> M. Champion gives some direct evidence as to the number of proprietors.

<sup>4</sup> *Revue internationale de sociologie*, XIII, 746.

<sup>5</sup> Loutchisky finds that the peasants in the Limousin held half the land (*Revue d'histoire moderne*, III, 160-163); in Laonnais only 30 per cent of it (*Revue historique*, LXVI, 410).

<sup>6</sup> Loutchisky, *loc. cit.*, p. 165; Karéw, p. 532; Sée, *Revue d'histoire moderne*, VI, 613.

<sup>7</sup> *Révolution française*, LI, 371.

<sup>8</sup> Sagnac, pp. 60, 61; Karéw, pp. 212-214.

<sup>9</sup> *Revue d'histoire moderne*, VI, 319.

<sup>10</sup> Sagnac, p. 61.

<sup>11</sup> For a summary of manorial rights see Fletcher's Carlyle, I, 274-276, and the appendix to de Tocqueville.

variations according to the part of the country, north or south, according to the province, even according to the district. They confused the jurists, and the jurists confuse us.<sup>1</sup> Avoiding complicated details, we may take first the *cens*, a kind of perpetual quit-rent. In the north it was usually a money-payment, much reduced by the depreciation of the precious metals;<sup>2</sup> in the south, where the peasant could command little money, it was usually a payment in kind, known as *champart*, *terrage*, etc.<sup>3</sup> The *cens* proper was so light that it evoked little complaint in 1789. Not so the *champart*.<sup>4</sup> According to locality it varied from one-sixteenth to one-sixth of the harvest.<sup>5</sup> The peasant found it particularly obnoxious because he could not change the method of cultivation,<sup>6</sup> because he must notify his lord twenty-four hours before the harvest and must often deliver what was due to the manorial barn. Besides this annual payment, the *censitaire* was subject to casual dues: the *corvée* or forced labor, which M. Karéïew puts at five to twelve days a year,<sup>7</sup> and the *lods et ventes* or mutation fines paid to the lord when the land was sold. The latter, though amounting to only a twelfth in Canada,<sup>8</sup> were usually, according to M. Sée, an eighth of the sale-price,<sup>9</sup> according to M. Jaurès between a fifth and a sixth.<sup>10</sup> It was hateful to the English settlers in Canada as a tax upon improvements; and for the same reason we find the peasants of St. Maurice-sur-Fessard terming it "an old custom, barbarous and absolutely opposed to the rights of man." They picture the *seigneur* gazing greedily upon his tenant's new buildings and saying: "One day I will have the sixth part of the value of all these fine things."<sup>11</sup>

The peasants were irritated by *champart* and *corvée*, but far more by the monopolies, fruitful source of abuse and petty oppression. Ancient tolls were collected where the road was no longer repaired and where the bridge was falling into decay.<sup>12</sup> From the dovecotes hundreds of pigeons invaded the fields of grain;<sup>13</sup> from the warrens came innumerable rabbits; and the peasant could not lift a hand against them.

<sup>1</sup> Sée, *Revue historique*, LXXXVI, 383.

<sup>2</sup> Sée, *Revue d'histoire moderne*, X, 176.

<sup>3</sup> Kowalewsky, *Revue internationale de sociologie*, IX, 491.

<sup>4</sup> *Ibid.*, p. 512; Champion, p. 142; Karéïew, p. 56.

<sup>5</sup> Sée, *Revue d'histoire moderne*, X, 176.

<sup>6</sup> Karéïew, p. 55.

<sup>7</sup> *Ibid.*, p. 27.

<sup>8</sup> Parkman, *The Old Régime*, p. 520.

<sup>9</sup> *Revue d'histoire moderne*, VI, 314.

<sup>10</sup> Jaurès, I, 14.

<sup>11</sup> Sagnac and Caron, *Les Comités des droits féodaux*, p. 421.

<sup>12</sup> Sée, in *Révolution française*, XLVI, 509.

<sup>13</sup> *Ibid.*, 512.

His grapes he must bring to the lord's press, his grain to the lord's mill, his flour to the lord's oven.<sup>1</sup> The millers, rapacious and dishonest, adulterated the flour with lime and sometimes took an eighth or a quarter instead of the sixteenth they were supposed to take.<sup>2</sup> Still more hateful were the hunting rights.<sup>3</sup> Some *cahiers* are devoted almost wholly to complaints against these. M. Champion quotes that of Colombes: "One will not be surprised to hear all the inhabitants of a parish say that the chase is the cause of their ruin. . . . Not only does it destroy the harvests, but it makes the cultivators slaves." The peasant could not have a gun or interfere with the game in any way. He was helpless when the hunt passed through the sown fields and destroyed the crops. The reporter of the Constituent declared that the chase robbed the peasants of ten million francs every year.<sup>4</sup>

Another of the manorial rights was justice, sole relic of the political power of the aristocracy.<sup>5</sup> This right had been much narrowed. The royal power had steadily encroached, placing restrictions upon the appointment of judges, increasing the subjects of appeal to its own courts. But while sweeping away whatever impeded its own freedom of action it had not been animated by any unselfish concern for the relief of the peasants. Thus the manorial courts still asserted jurisdiction in cases affecting the lord's rights, still gave the lord indirectly the position of judge in cases affecting his own interests. Too often the judge may have allowed his appetite to govern his application of the law; he knew which table offered him the best dinner, which cellar held the oldest vintage.<sup>6</sup> Justice, according to the *cahier* of Rennes,<sup>7</sup> was "the chief instrument of seigniorial despotism."

From such close examinations of the parish *cahiers* as M. Henri Sée has made for Brittany it becomes evident that the peasants complained less of the manorial rights than of the abuses of them.<sup>8</sup> "The fiscal zeal of the lords," says M. Sagnac,<sup>9</sup> "is intensified before dying." There is no doubt that the reign of Louis XVI saw what we may call a manorial reaction.<sup>10</sup> "Under pretext of rights, perhaps legitimate in

<sup>1</sup> For a defence of the baking monopoly, see Sagnac and Caron, p. 421.

<sup>2</sup> Champion, p. 144; Sée, in *Révolution française*, XLVI, 511. <sup>3</sup> *Ibid.*, 512.

<sup>4</sup> Jaurès, *Histoire socialiste*, I, 18.

<sup>5</sup> *Ibid.*, p. 13; Sée, in *Révolution française*, XLVII, 33, and in *Revue d'histoire moderne*, VI, 315. <sup>6</sup> *Révolution française*, XLVII, 35. <sup>7</sup> *Ibid.*, p. 34.

<sup>8</sup> *Ibid.*, XLVI, 509, and XLVII, 45.

<sup>9</sup> Sagnac, p. 65.

<sup>10</sup> Kovalevsky, *Revue internationale de sociologie*, IX, 496, and XIII, 748; Champion, p. 154; Karéw, pp. 96, 531; Sagnac and Caron, p. 424; Sée, *Revue d'histoire moderne*, X, 184-191.

their origin, the lords and their agents accumulated impudent frauds, exercised a heavy oppression; and the passing delirium, of which they were the victims, was provoked by an interminable series of iniquities."<sup>1</sup> After a century and a half of relaxation a new policy had manifested itself. On the one hand old rights were enforced with a new strictness—the manorial rolls revised, arrears collected unmercifully. On the other hand new pretensions were advanced; the *corvées* were extended, forest rights withdrawn, the commons usurped. The manorial system, moribund though it was, seemed to stiffen defiantly before the spread of hostile ideas. But the enclosure of forest and commons, the breaking-up of the domain into farm lots, has a special explanation. It was due, M. Kovalewsky informs us,<sup>2</sup> to the lord's desire to take advantage of the progressive rise of land values; for the *cens*, where it took the form of a money payment, had long ceased to represent the value of the land. The protests against this new policy remind us of the sixteenth century in England. "They take away from the class which has greatest need what constituted its sole resource," says the *cahier* of La Ferrière Bochart. M. Kovalewsky presents tersely the concatenation of evils which resulted: lack of commons led to lack of cattle, lack of cattle led to lack of manure, lack of manure led to bad harvests.<sup>3</sup> "To some parishes nothing is more precious than pasturage," say the peasants of Cheffes;<sup>4</sup> and they proceed to tell how they had enjoyed common rights "from the beginning of the world up to 1774, when they were deprived of them by a decree of the council issued for the benefit of the lords of Cheffes, which decree was absolutely opposed to their titles."

What were the circumstances of the peasant when the Revolution came? "There is no one who does not admit that the nation was prepared for the Revolution by the consciousness of ills much more than by the progress of enlightenment." These words of Mirabeau are placed upon the title page of M. Champion's work. They would be equally applicable to the work of M. Karéw, who pictures the situation of the peasant in very somber colors. The peasant, he reminds us,<sup>5</sup> was subject to a three-fold exploitation, by church, government and lord, by tithes, imposts and manorial dues; and these dues, aggravated towards 1789, brought him to "a veritable ruin."<sup>6</sup> Although it is impossible to determine exactly what part remained to the peasant after

<sup>1</sup> Champion, p. 154.

<sup>2</sup> *Revue internationale de sociologie*, IX, 496.

<sup>3</sup> *Ibid.*, p. 508.

<sup>4</sup> Sagnac and Caron, p. 142.

<sup>5</sup> Karéw, p. 532.

<sup>6</sup> *Ibid.*, p. 530.

the discharge of his obligations, Karéiew holds that there is evidence to show how very small that part was.<sup>1</sup> Does not the *cahier* of Nemours say that the revenue was sometimes insufficient to make all payments? Do not the parishioners of Saint-Evremond-de-la-Barre complain that "the little revenue that our work and our land brings us hardly suffices to pay imposts and rents?"<sup>2</sup> And is not Taine able to say that there was nothing left at all? Oppressed by such onerous charges, robbed of his commons rights and therefore deprived of his cattle, the peasant often abandoned his land, let it fall out of cultivation,<sup>3</sup> and emigrated to towns already swarming with beggars. For those who stuck to the soil the hardships were unutterable. So grievous were the burdens, so bad the cultivation, that wheat failed and years of famine became more frequent.<sup>4</sup> The *métayer* had to borrow grain for seed and sustenance until harvest time.<sup>5</sup> "Want of wheat became a general rule for the peasant."<sup>6</sup> There were these strange anomalies: wheat failing, yet much land out of cultivation; labor failing, yet town and country filled with begging vagabonds; those who raised wheat having to borrow wheat to keep alive! Reading this, we wonder that the twenty-five millions lived to see the gracious Revolution.

Much that M. Karéiew says is confirmed by other writers of authority. "Misery reigns in most villages . . . Those who remain in the country live for the most part in penury," says M. Sagnac.<sup>7</sup> M. Sée believes that the peasants were "still" very miserable, that often a third of them were reduced to begging.<sup>8</sup> "Their dwellings, their furniture, their deplorable food mark their distress."<sup>9</sup> According to M. Kovalewsky the royal imposts and manorial dues exceeded the revenue of the land, which as a result went out of cultivation.<sup>10</sup> Indigence was terribly common.<sup>11</sup> And M. Champion concludes that "feudal barbarity maintains the population and agriculture in a mortal torpor."

But such a sombre picture as that of M. Karéiew is not all true; nor, so far as it stands against criticism, does it prove that the peasant was impelled toward revolution by an accumulating weight of miseries. This much may be said: to us in the light of our higher standards of living, to him in the light of his aspirations, the peasant's condition

<sup>1</sup> Karéiew, p. 218.<sup>2</sup> *Ibid.*, p. 219.<sup>3</sup> *Ibid.*, pp. 221 and 533.<sup>4</sup> *Ibid.*, pp. 224, 225.<sup>5</sup> *Ibid.*, pp. 226, 228.<sup>6</sup> *Ibid.*, p. 533.<sup>7</sup> Sagnac, p. 62.<sup>8</sup> *Revolutions française*, XLVII, 36.<sup>9</sup> *Revue historique*, LXXXVI, 384.<sup>10</sup> *Revue internationale de sociologie*, IX, 505.<sup>11</sup> *Ibid.*, XIII, 729.



was unsatisfactory, sometimes even wretched. This remains true even after we have learned from Mr. Willert<sup>1</sup> and M. Sée<sup>2</sup> that the land did not fall out of cultivation; that famines were due rather to forestalling than to the failure of crops; that if the *cahiers* complain of mendicity, they also complain of the scarcity and dearness of labor, and that, though treated so reverently by MM. Karéw, Kovalewsky and Champion, they are not without some of the ordinary frailties of historical documents.<sup>3</sup> But in Mr. Willert's opinion it is not true that the condition of the peasant was worse under Louis XVI than under Louis XIV or Louis XV.<sup>4</sup> As Seeley put it, a population that rebels is a population that is looking up. In the evolution towards full liberty serfdom had been left behind; and the more clearly full liberty came before his view, the more did the French peasant resent the restrictions which remained. This was the view of de Tocqueville, which M. Champion calls "ingenious." It is the view also of MM. Loutchisky,<sup>5</sup> Jaurès<sup>6</sup> and Sagnac. The land system, says M. Sagnac,

is all the more odious and intolerable since the peasant is very often proprietor, recognized as such by the jurisprudence of the eighteenth century, and since the dues which are exacted from him seem obligations without cause; since, finally, he is, by law, independent of the lord in all that concerns the administration of the community of inhabitants. He is proprietor, free citizen of the commune, and yet he feels himself more than ever depressed . . . The desire to free himself became more violent and more irritating as comforts and enlightenment grew.<sup>6</sup>

In France the peasant resented an occasional *corvée*; in Hungary or Poland he submitted dumbly to the rigors of mediæval serfdom. There is at least one good reason why Joseph II failed to accomplish in his dominions those reforms which succeeded in France, and why Poland did not respond to the call of Kosciusko.

### III. THE ABOLITION OF THE MANORIAL SYSTEM

Though greatly modified, almost transformed, the manorial system still prevailed in France; and, contrary to a popular impression, its extinction was by no means effected in a day. The "orgy" of August 4 and the decrees which followed it were merely the starting-point, the

<sup>1</sup> *English Historical Review*, XVI, 178-182.    <sup>2</sup> *Revue historique*, LXXXVI, 384.

<sup>3</sup> Sée, in *Révolution française*, XLVII, 46; *Revue d'histoire moderne*, VI, 316; *English Historical Review*, XVI, 178-182.

<sup>4</sup> *English Historical Review*, XVI, 178-182.

<sup>5</sup> *Révolution française*, XLIX, 407.

<sup>6</sup> *La Législation civile*, pp. 77, 84.

beginning of a reform which occupied three different assemblies and found expression in a great number of decrees. And, further, we must not allow the dramatic events of that night to obscure the realities behind them.

It was once the fashion to place an aureole about those liberal nobles who then sacrificed their rights. The phrases which Louis Blanc uses<sup>1</sup> are "sacred intoxication," "fever of generosity," "delirium of abnegation." Carlyle<sup>2</sup> speaks of the deputies going home with their sublime heads striking the stars. But in the light of close examination the aureole fades away. It was expediency, far more than devotion to principles of justice and equality, that moved the Constituent Assembly to the sacrifice. The peasants were in a state of insurrection; the Assembly held out to them an olive branch.

When the parish *cahiers* were drawn up and the elections to the States-General held, the peasants had everywhere demanded freedom from feudal burdens.<sup>3</sup> The assembly ignored these demands. For the country districts had not received their due weight in representation, and the *cahiers*, as finally revised, had not given due attention to their complaints. The men who went to Versailles nominally represented the country as well as the towns; really they were bourgeois in sympathies as well as station.<sup>4</sup> That is why the Assembly, from which the peasants expected so many economic reforms, concerned itself with the Rights of Man instead.<sup>5</sup> It proceeded to draft a constitution, to lay down principles of liberty whose value the peasant could understand but dimly. In a word, from his point of view the Assembly had failed; and since it did not liberate him, he set about liberating himself. That is the meaning of the *Jacquerie*,<sup>6</sup> the burning of the manor rolls and even of the manor houses, which began in the summer of 1789. It was like the Peasant Revolt of 1381 in England. It was not promoted by personal hatred against the lord<sup>7</sup> or by a mere spirit of vandalism; the chief object was the destruction of the charters, the records of hated rights. The disturbances became general. "It was," says M. Jaurès,<sup>8</sup> "the violent abolition of the whole feudal system. It was the great

<sup>1</sup> Histoire de la Révolution, II, 486.

<sup>2</sup> Fletcher's ed., I, 275.

<sup>3</sup> Sagnac, pp. 77, 78; Kovalewsky, *Revue internationale de sociologie*, IX, 489.

<sup>4</sup> "Almost the whole constituent body was composed of men chosen from the towns . . . and the country was forgotten . . . No one spoke for it." Sagnac and Caron, p. 280. Cf. Sagnac, p. 120. <sup>5</sup> Sagnac, p. 85; Karéw, pp. 445, 540.

<sup>6</sup> As to its connection with the taking of the Bastille, see Histoire socialiste, I, 271; Sagnac, p. 86; Karéw, pp. 439, 444.

<sup>7</sup> Histoire socialiste, I, 278; Karéw, p. 443.

<sup>8</sup> Histoire socialiste, I, 278.

peasant revolution accomplishing itself outside of legal forms and of the will of the legislator."

This general brigandage and violence was the subject of a report read to the Assembly on the evening of August 3. The debate which then took place made the situation clear to every one.<sup>1</sup> The Assembly, deeply impressed with its formidable nature, refused to assent to Salomon's motion for repressive measures.

This debate illuminates that of the next evening. It brought the deputies face to face with an unpleasant situation. The manorial system had been overturned by the peasantry; and since the Constituent was unwilling to try the dangerous work of repression, it must in some measure accept the accomplished fact.<sup>2</sup> D'Aiguillon and de Noailles probably saw the advantage of anticipating the action which the Assembly would be forced to take.<sup>3</sup> The generosity of the act would not only calm the peasantry, but bring popularity; and the timely sacrifice of part of their rights might prevent the loss of all.<sup>4</sup> "Theirs was a plan premeditated and executed with deliberation," says M. Jaurès.

The first proposal of the sacrifice came from de Noailles.<sup>5</sup> The object of the Assembly, he said, was to put an end to the violence in the provinces, to discover its cause and apply the remedy. That remedy was not a constitution, which had been demanded only in the *bailliages*; it was the abolition of manorial rights. He therefore moved that mortmain and other personal servitudes should be abolished outright and that the rest should be abolished by means of redemption.

D'Aiguillon seemed to rise above mere arguments of expediency. He talked of philosophy, enlightenment, public happiness, the sacrifice of personal interests. But though he alluded to the manorial rights as "barbarous relics," though he excused the peasants for attempting "to shake off at last the yoke which, for so many centuries, has weighed upon their necks," he did not forget to guard the interests of his own class. "These rights, it cannot be denied, are a property, and all property is sacred. . . . Equity forbids exacting the abandonment of any property without according a just indemnity to the proprietor." The resolution which he offered was less favorable to the peasants than that of de Noailles:

The National Assembly, considering that the feudal rights are a kind of

<sup>1</sup> Buchez and Roux, *Histoire parlementaire*, II, 211.

<sup>2</sup> Sagnac, p. 87.

<sup>3</sup> Kartiew, p. 449.

<sup>4</sup> *Histoire socialiste*, p. 253; Doniol, *La Révolution française et la féodalité*, p. 56.

<sup>5</sup> For the debate see *Moniteur*, 33 and 34; Buchez and Roux, II, 224.

onerous tribute which injures agriculture and desolates the country, yet not being able to conceal that the rights are a veritable property and that all property is inviolable, resolves that these rights shall in future be redeemable at the will of those who are subject to rents.<sup>1</sup>

He suggested thirty years' purchase. However just, from the point of view of the *seigneur*, d'Aiguillon's resolution may be considered, it did not square well with his generous professions. He went the whole length in denouncing manorial rights; he expressed every sympathy for the peasants. But what was the significance of the resolution? M. Jaurès maintains<sup>2</sup> that at thirty years' purchase the peasants would have found redemption impossible. Supposing the annual value of the charges to be 120,000,000 francs, the peasants would have had to find 3,600,000,000 francs. And the last two harvests had failed!

Whatever were the motives of d'Aiguillon and whatever was the practical meaning of his resolution, he seemed to be animated by generous sentiments. There was fire too in the rude eloquence of Leguen de Kerengal.<sup>3</sup> In scenes of wild excitement, with applause and even tears, proposals came from all sides. Everybody tried to propose the abolition of something. "Each order, taken separately," is Karéïew's cynical comment, "found means to satisfy its prejudice against the other in proposing the abolition of what it did not itself enjoy at all."<sup>4</sup> Involved in a common fate were the ecclesiastical tithe, manorial justice, pecuniary exemptions, town privileges and much else. Carlyle calls it a new night of Pentecost, shaped according to the new time and the new religion of Jean Jacques Rousseau.

A few days later the decree appeared—the famous August decree.<sup>5</sup> It has been compared to a spider's web intended to check an impetuous torrent.<sup>6</sup> It dealt satisfactorily with hunting rights, dovecotes, rabbit warrens. It abolished manorial justice. But the first article was to raise much difficulty and discontent.

The National Assembly entirely destroys the feudal system. It decrees that among rights and duties, feudal as well as *censuel*, those which are attached to real or personal mortmain or personal servitude, and those which represent them, are abolished without indemnity; all the others are declared redeemable, and the price and the mode of redemption will be fixed by the National Assembly. Those said rights which are not sup-

<sup>1</sup> Buchez and Roux, II, 227, 228.

<sup>2</sup> Histoire socialiste, I, 292.

<sup>3</sup> Buchez and Roux, II, 229.

<sup>4</sup> Karéïew, p. 540; see also p. 452.

<sup>5</sup> Sagnac and Caron, pp. 1, 2; Buchez and Roux, II, 259-263.

<sup>6</sup> Taine, II, 205.

pressed by this decree will continue, nevertheless, to be levied up to the time of redemption.

This article laid down a principle which was followed in later legislation. It recognized two classes of manorial rights, those which were redeemable and those which were to be abolished without indemnity. But this arrangement the peasants refused to accept. They appealed to the first clause of the article: "The National Assembly entirely destroys the feudal system." They found the subsequent provisions inconsistent with that declaration.<sup>1</sup> And it was indeed anomalous that the servile tenants, differing so slightly from the free tenants, should receive full proprietorship, while the latter continued to pay their dues.<sup>2</sup> The application of the principle of redemption to the great body of manorial charges was not immediate and total abolition. Redemption was no great boon to the peasant who was too poor to profit by it; nor was it likely to be fixed at a figure that would satisfy the richer peasant. So they took the opening clause in its literal sense and regarded themselves as entirely freed from the old bonds.<sup>3</sup> The documents in MM. Sagnac and Caron's volume give interesting evidence of the temper which prevailed throughout the country.

All the peasants refuse to pay the rents. They gather in crowds, they make combinations, . . . proposing that no one shall pay rent, and that if any one proceed to do so, he shall be hanged. . . . The manor houses and all they contain have been pillaged or set on fire; almost everywhere the archives have been burned; those lords who have been the least rigorously treated have been forced to make absolute renunciation of all their rights and rents.<sup>4</sup>

On the other hand the seigniorial party did what it could to retard the elaboration of the decrees and to modify them in a reactionary sense.<sup>5</sup> As for the king, he declared that "there would be in France neither monarchy nor monarch" when he should be obliged to give his assent;<sup>6</sup> and it was only after the October days that his resistance broke down. It then remained to give the August decree, a mere declaration of principle, the proper legal form; to accommodate it exactly to the many strange varieties and anomalies of the manorial system. This work was

<sup>1</sup> *Histoire socialiste*, I, 290; Sagnac, p. 91.

<sup>2</sup> Viollet, in *Cambridge Modern History*, VIII, 716.

<sup>3</sup> *Histoire socialiste*, I, 290. Karéw, p. 47; Sagnac, p. 91.

<sup>4</sup> Sagnac and Caron, pp. 160, 161; see also p. 159.

<sup>5</sup> *Moniteur*, 35, 36, 37; Karéw, pp. 452, 474.

<sup>6</sup> Buchez and Roux, II, 248.

entrusted to a "feudal committee,"<sup>1</sup> whose members were for the most part lawyers.<sup>2</sup> The difficulty of their task and the energy with which they applied themselves to it are to be gathered from the numerous decrees published in the *Archives parlementaires*. The most important are those of March 15 and May 3, 1790. The former classified the manorial rights in two categories;<sup>3</sup> the latter established the mode of redemption.<sup>4</sup> Writers of today are not inclined to regard them with a kindly eye.

The March decree made the classification of rights depend on their supposed origin. A distinction was drawn between those which were of contractual origin and those which were not. Those rights were declared redeemable "which are the price and condition of a primitive concession of land," that is, of a contract.<sup>5</sup> Included among these redeemable rights were fixed charges such as *champart* and casual charges such as *lods et ventes*. Those rights were suppressed without indemnity which sprang from the sovereign power of the lord or from personal servitude.<sup>6</sup> As if, says Doniol,<sup>7</sup> to prove the fulfilment of the promises of August, there follows in thirty-nine articles a minute enumeration of the sacrificed rights—mortmain, justice, *banalités*, prohibition of selling or transmitting property, *etc.* As M. Sagnac has shown,<sup>8</sup> the committee was guilty of many inconsistencies in classifying particular rights; but the real difficulty was in the basis of their classification, which was chimerical.<sup>9</sup> In completing their theory of feudalism, the lawyers had introduced into ancient institutions whose origin was unknown or obscure and whose history was one of slow elaboration and transformation, a fictitious regularity. The multiform manorial rights were regarded as either real or personal. If personal, *i. e.*, affecting persons directly, they had been originally usurped and, though legitimate while the lord provided security and work for the peasant, were now unjust and oppressive. The real rights, on the other hand, affected persons only through the land and were the price of an original concession of land. They depended upon a legitimate contract.<sup>10</sup> Such was the juridical theory. It was far from according with the complex and disordered reality. The decree bears upon its face the mark of reaction. Where personal rights were in question, they must be redeemed if the lord

<sup>1</sup> Sagnac, p. 97.<sup>2</sup> Karéw, p. 457.<sup>3</sup> *Archives parlementaires*, XII, 172-177; Sagnac and Caron, pp. 173-182.<sup>4</sup> *Archives parlementaires*, XV, 364-368.<sup>5</sup> Titre iii, art. 1.<sup>6</sup> Titre ii, art. 1.<sup>7</sup> *La Révolution française et la féodalité*, p. 72.<sup>8</sup> *Législation civile*, p. 99.<sup>9</sup> *Ibid.*, p. 98.<sup>10</sup> *Ibid.*, pp. 136-138 and 97.

could give proof of contractual origin. But he was under no obligation to prove the origin of real rights; the decree assumed their legitimacy in the absence of proof to the contrary.<sup>1</sup> As if, exclaims M. Sagnac,<sup>2</sup> the debtor must prove that he does not owe, prove the non-existence of an obligation.

The same reactionary spirit informs the May decree. It fixed redemption at twenty years' purchase in the case of money dues, at twenty-five years' purchase in the case of dues in kind,<sup>3</sup> and at a fraction of the payment, varying according to circumstances, in the case of casual dues.<sup>4</sup> So far the peasants had little ground for complaint.<sup>5</sup> Their grievance lay in two serious restrictions placed upon them. Redemption must be: (1) *en bloc*, covering casual and fixed charges at the same time; (2) joint, where services were performed or payments made by a group of tenants jointly.<sup>7</sup> These provisions were received with real or feigned consternation.<sup>8</sup>

At the moment when they flattered themselves that their chains were falling, the people already blessed the noble courage of their liberators. What were their terror and grief when they felt that their fetters were becoming indissoluble, that the means of escaping the frightful yoke of injustice . . . were impracticable.<sup>9</sup> . . . If the National Assembly [the citizens of Loumarin declared] does not permit us to redeem the fixed charges separately from the casual, the people subject to this terrible system will still be dead to liberty a thousand years from now.<sup>10</sup>

The injustice of the first restriction was due to the fact that many holdings, descending from father to son, would never be alienated and thus never subjected to mutation fines. Moreover it made too large a demand on the peasant's resources. It must be borne in mind that the last two harvests had failed and that arrears had to be settled at the time of redemption.<sup>11</sup> "Here then was liberation closed . . . to every *cessitaire* not in comfortable circumstances."<sup>12</sup> Pending redemption, it is true, the legal theory regarded the land dues as no longer manorial in character. But theories did not make any difference to the peasant.

<sup>1</sup> Decree of March 15, titre iii, art. 2; Karczew, p. 468. For a striking criticism see Sagnac and Caron, pp. 270-275 and 313.

<sup>2</sup> Sagnac, p. 104.

<sup>3</sup> Archives parlementaires, XV, 365. <sup>4</sup> *Ibid.*, p. 366. <sup>5</sup> Sagnac, pp. 119, 120.

<sup>6</sup> Decree of May 3, art. 3.

<sup>7</sup> *Ibid.*, art. 4.

<sup>8</sup> Sagnac and Caron, p. 126; *ibid.*, pp. 255, 263, 267, 290.

<sup>9</sup> *Ibid.*, p. 286.

<sup>10</sup> *Ibid.*, p. 280.

<sup>11</sup> Decree of May 3, art. 22; Sagnac, p. 118.

<sup>12</sup> Doniol, p. 81.

"Singular reforms, truly," says M. Sagnac. "The jurists have suppressed or modified only words."<sup>1</sup>

In fact the Constituent Assembly, beginning with the promise to destroy the manorial system utterly, seemed to proceed in quite another way. It was hampered by the determination to protect legitimate property rights which were inextricably commingled with manorial rights. It pushed its generosity so far as to allow redemption; then it weighted redemption with prohibitive conditions. "The deputies had sought to conciliate the most opposed interests, but they had not held the balances even. They had given much to the tenants, then taken everything back. They had succeeded only in irritating the cultivators without contenting the landlords. Never did legislation unchain a greater indignation."<sup>2</sup>

The March and May decrees no more ended the disorders in the country than did the August decree of the previous year. To the peasants they might well seem part of a counter-revolution.<sup>3</sup> "An experience of two years proved to us that we were still slaves," we read in one of the documents published by Sagnac and Caron (page 295). The manorial lords, their spirits restored, endeavored to exact even those rights which had been suppressed without indemnity.<sup>4</sup> The peasants, equally obstinate, refused to pay quit-rents, seized mills and wine presses, exterminated game.<sup>5</sup> They set up what was practically, as M. Karéw remarks,<sup>6</sup> universal freehold. "If all citizens have the right of demanding justice and the protection of the laws," says the lord of Treilles,<sup>7</sup> "show me, I pray you, the means of obtaining them, the means of not being exposed incessantly to die of hunger and misery, or to meet a violent death in defending one's property." There was insurrection everywhere, less sudden, less terrible than in 1789, but more grave, more disquieting, because its better organization threatened to make anarchy permanent.<sup>8</sup> A remarkable letter will be found in Sagnac and Caron's collection of documents (pages 393-397), describing very much the same system of popular agitation as has become familiar to students of Irish history.

These were the conditions when, in October, 1791, the Legislative Assembly succeeded the Constituent. It found itself placed in the

<sup>1</sup> Sagnac, p. 126.

<sup>2</sup> *Ibid.*, pp. 120, 121.

<sup>3</sup> *Ibid.*, p. 124.

<sup>4</sup> "The lawyers, tools of the old system, have obscured the decrees." Sagnac and Caron, p. 283. Cf. *ibid.*, pp. 292, 315; Sagnac, pp. 121, 122.

<sup>5</sup> Karéw, p. 487.

<sup>6</sup> *Ibid.*, p. 502.

<sup>7</sup> Sagnac and Caron, p. 283.

<sup>8</sup> Sagnac, pp. 127-130; Sagnac and Caron, pp. 651, 652, 656, 661 *etc.*



midst of embarrassments, one of the chief of which was the danger of foreign war. Beyond the Rhine the *émigrés* were busy; and the German princes, whose rights in the eastern provinces had been violated by the manorial legislation, were demanding satisfaction through the emperor. It was natural, therefore, that the new Assembly should wish to secure the loyalty of the peasants,<sup>1</sup> and that it should have little compunction in attacking the property rights of an aristocracy which was trying to enlist European sovereigns in a war against the Revolution.<sup>2</sup> The Constituent had wished merely to restore order in the country; the Legislative needed the active support of the peasants.<sup>3</sup>

That support it sought to enlist by brutally overturning the arrangement of 1790. It sanctioned a system of spoliation. In theory it retained the principle of categories and merely corrected a misconception of its predecessor. The Constituent, following the prevalent juristic view that rights attached to the land were contractual, had placed these in the category of redeemable rights and had left with the peasant the burden of proving that they did not rest on contract. But this juristic view was as incapable of demonstration as Rousseau's social contract or the existence of the lost continent of Atlantis. As early as 1776 the economist Boncerf had attempted to show that feudal rights generally rested on violence and had proposed abolition without indemnity except in cases where contract could be proved.<sup>4</sup> The same view was now put forward by Michallet in *Les Mystères des droits féodaux dévoilés*.<sup>5</sup> The March decree of 1790 allowed the suppression of rights otherwise redeemable if it could be proved that they did not depend upon an original concession of lands. Such a proof, capable of general application, Boncerf and Michallet gave in their version of the origin of feudal rights. The essence of their view was expressed in spirited language in an address presented to the Feudal Committee by certain municipalities in Moselle:

Have the tyrants who have so long desolated and worn down the human race ever had any other title than force and despotism? The past generations have been witness of the violence by which these changes have been established, and if they came forth from the grave, they would give the proofs of the feudal despotism of which they were the first victims. But we who know the tyrannical origin of these rights only by tradition, we have no other titles to prove their injustice than the history which our ancestors have transmitted to us.<sup>6</sup>

<sup>1</sup> Karéïw, p. 504.

<sup>2</sup> Sagnac, p. 152.

<sup>3</sup> Karéïw, p. 541; Sagnac and Caron, p. 301.

<sup>4</sup> Sagnac, p. 70.

<sup>5</sup> Karéïw, pp. 498-501; Doniol, p. 106.

<sup>6</sup> Sagnac and Caron, p. 316.

Here, then, was a basis on which the Legislative might decree outright suppression, while apparently safeguarding property rights and following the principle already laid down. The most important decree which it passed was that of August 25, 1792.<sup>1</sup> According to the second article of this decree landed property was to be free from all charges, "if those who claim them cannot bring proof to the contrary." In other words, only those rights which were based on authentic documents should be redeemed; and, as such proof was in most cases altogether impossible, Doniol is justified in saying that the abolition was complete.<sup>2</sup> But though this was the case legally, in practice manorial rights persisted; and complaints of oppression reached the National Convention when it took the place of the Legislative Assembly.<sup>3</sup> The temper of the Convention is well known. It was exhibited in the decree of July 17, 1793,<sup>4</sup> which established the absolute freedom of property. Now not even the production of a primitive title could save seigniorial rights. The proprietor of the *domaine utile* and the proprietor of the *domaine direct* were henceforth one.

The work was finished. As this brief review has shown, the legislation did not proceed from any reasoned conviction, from any principles of justice. It had its source in considerations of expediency; in the desire of the Constituent to bring peace to the country; in the desire of the assemblies which succeeded it to secure the loyal support of the peasants. But for all that, it was, as M. Jaurès says, "the most radical revolution which had been seen in France for a thousand years."<sup>5</sup> Spoliation it was—the most flagrant spoliation of the Revolution. Legitimate property rights, rents which were paid cheerfully in England, were involved with oppressive exactions in a common destruction. But the soil of France became the freest soil in Europe; a fresh impetus was given to the development of peasant proprietorship, so important to the stability of France; and, with the removal of the shadow of seigniorial power, the democratic spirit could expand untrammelled.

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<sup>1</sup> Sagnac and Caron, pp. 773–775; Archives parlementaires, XLVII, 698–701.

<sup>2</sup> Doniol, p. 144.

<sup>3</sup> Sagnac and Caron, p. 777; Karéw, p. 509.

<sup>4</sup> Archives parlementaires, LIX, 98; Sagnac and Caron, pp. 775, 776.

<sup>5</sup> Histoire socialiste, I, 153.

## REVIEWS

*The Government of England.* By A. LAWRENCE LOWELL.  
New York, The Macmillan Company, 1908.—Two volumes: xv,  
570; viii, 563 pp.

These volumes are the result of the first attempt by either an English or an American writer to give an approximately complete account of the political institutions of England. Various works of a more or less special character have already covered different portions of the general field. The well-known books of Anson, Todd and Hearn are largely devoted to the historical and juristic aspects of the subject, while, on the other hand, the classical work of Walter Bagehot, the masterly treatise of Professor Dicey and the recent penetrating study of Mr. Sidney Low are mainly concerned either with an interpretation of legal relations or with a presentation of the actual governmental forces in operation. None of these different phases of the subject is neglected by Professor Lowell. The comprehensiveness of his plan will be seen from a list of some of the topics treated. Beginning, contrary to the usual custom, at the top, he gradually works down from the apex to the base of the governmental structure. After an introductory note on the constitution, in which he takes rather forceful exception to Professor Bryce's well-known distinction between rigid and flexible constitutions, he discusses the various branches of the central government, including the civil service, and devotes two luminous chapters to the relation between the Cabinet and the Commons. The party system is next passed in review, and this is followed by excellent descriptions of local government, education, the church, the empire and the courts of law.

Perhaps on the whole the most valuable portion of the work is that in which the party system is described. Professor Lowell is already well-known for a work on continental governments, in which, differing in this respect from M. Dupriez, he approaches the study of government from the standpoint of party. In the present work, while this point of view is not so strongly emphasized, it is still utilized with excellent effect. In treating the party system Professor Lowell is plowing newer ground than in any other part of the work. His only predecessor of magnitude in this field is M. Ostrogorski, but the value of the latter

writer's work is lessened by his deep-rooted prejudice against parties and by his failure to comprehend fully the fundamental function of the party system in modern democratic government. In these respects Professor Lowell's treatment is saner and more productive of serviceable conclusions. He applies the statistical method to the phenomena of political parties with considerable success, and he also makes a keen analysis of the consequences arising from the difference between the coincidence of the party system with governmental forms at the center and their divergence in the localities.

Professor Lowell finds in the pressure for class legislation "the most serious menace to which British institutions are exposed" (II, 535). He holds, however, that the political center of gravity and the actual center tend to come together "largely through the fact that the electorate comprises almost the whole community, while the immediate direction of affairs is still mainly in the hands of a smaller governing class" (II, 538).

Few criticisms can be made upon a work at once so well conceived and so admirably executed. Some matters, however, that one might expect the author to discuss are passed over. For example, one is somewhat disappointed that no general inferences are drawn from the observation of a sufficient number of by-elections. Such an undertaking might have thrown new light upon the important functions of such elections, their normal influence upon the political complexion of the House of Commons and their relation to the working of the parliamentary form of government. One also notes with regret that there is no bibliography, although this lack is to some extent supplied by the copious references in the foot-notes. On the other hand, we find included in the work a concise history of the relation of the law of nature to positive law in Germany, which does not seem to be sufficiently germane to the subject to warrant its inclusion.

In its general design and character, the work under review suggests a comparison with that of Professor Bryce on the American Commonwealth. The field which Professor Lowell sets out to cover is not so extensive as that which the English statesman has treated, but, on the other hand, the English government is so overlaid with what Dicey has styled the "conventions of the constitution" that it offers peculiar difficulties to an American student, accustomed to greater precision in constitutional forms. On the whole it may be said that Lowell's work is to a greater extent than Bryce's a careful and scholarly presentation of facts, and to a less extent a critical interpretation of facts. It is not so great or so brilliant a work as Bryce's, but it is more thorough and it

will be at least equally useful. It will undoubtedly take its place in the front rank of that admirable group of studies in which scholars of one nation examine and report upon the political institutions of another; and it is scarcely too much to say that it will come to be recognized as one of the most considerable and noteworthy contributions yet made by an American scholar in the field of practical politics.

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*American Diplomacy under Tyler and Polk.* By JESSE S. REEVES. Baltimore, The Johns Hopkins Press, 1907.—335 pp.

Dr. Reeves's excellent study of the diplomacy of the United States under Tyler and Polk is necessarily lacking in unity, for neither a single administration or a single group of diplomatic negotiations is the theme. The author has, however, given us, in each subject with which he deals, a more thorough and exhaustive study than has before been made except in those matters treated in Moore's *International Arbitrations*, which is, after all, only a collection of original material ably assembled by a scholar who is a master of the sources. Mr. Reeves has occasion in this work to treat the subjects of the Northeastern boundary, the Ashburton treaty, the relations between Mexico and the United States concerning Texas (1825-1845), the annexation of Texas, the Northwestern boundary, the Oregon treaty, Polk's negotiations for California and the treaty of Guadalupe Hidalgo. So many new points are brought out that the book is worthy of a far more detailed review than the limits of this notice permit. There is a strong arraignment of the position of the United States government on the subject of the right of search as connected with the work of suppressing the African slave trade. Again Dr. Reeves has a trenchant comment upon the so-called "battle of the maps" as connected with the Ashburton treaty. That subject, says Dr. Reeves, properly belongs to the discussion of the ratification of the treaty. "It would have been foreign to the spirit of the plan for the adoption of a conventional line had Ashburton and Webster introduced arguments based upon the old maps." Another rather startling assertion, amply proven by the facts submitted, is that the Mexican War and the conquest of California formed a distinct episode, completely disassociated from the annexation of Texas to the United States. The author holds that they are two distinct phases of southwestern expansion. Again he asserts and proves that "instead of slavery's assisting in the expansion of the national territory, it delayed and almost defeated it." This he holds especially as to Texas. "The charge of

premeditated expansion by the United States for the purposes of extending slavery falls to the ground." Texas might have been acquired without war with Mexico, but for the disgraceful work of some of the American diplomats. Another interesting contribution by Dr. Reeves is the demonstration that President Jackson's conduct, in dealing with Mexico in reference to American claims and the annexation, was not at all what Von Holst has pictured it, but really commendable "when one considers the speed with which the United States recognized the Republic of Panama." Von Holst's reliance on Adams's *Memoirs*, Dr. Reeves says, led the German historian into error. The harm which a third political party can do to its own cause is clearly shown in the fact that "thanks to the Liberal party in the state of New York, the annexation of Texas seemed to have been endorsed by a popular vote."

That many other interesting matters are brought out in this monograph must be vouched for rather than shown. No one can neglect its use in the study of the diplomacy of this period. The book is fully annotated, and there is a fair index, but no bibliography. It is written in a clear style, plain and unadorned, which will not attract readers who have no special interest in the theme.

C. H. VAN TYNE.

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*Island Possessions of the United States.* By ALBERT EDWARD MCKINLEY. (Volume XX of *The History of North America*, edited by FRANCIS NEWTON THORPE.) Philadelphia, George Barrie and Sons, 1907.—xviii, 291 pp.

*America as a World Power.* By JOHN HOLLADAY LATANÉ. (Volume XXV of *The American Nation: A History*, edited by ALBERT BUSHNELL HART.) New York, Harper and Brothers, 1907.—xvi, 350 pp.

*The United States as a World Power.* By ARCHIBALD CARY COOLIDGE. New York, The Macmillan Company, 1908.—vii, 385 pp.

The last decade of American history, its new phases and the new problems it has brought, is the subject of these three volumes. Both Professor McKinley and Professor Latané have prepared, for their respective series, a very good résumé of the events, the former continuing the story into 1906, the latter well into 1907. Professor McKinley has the advantage of a somewhat more logical editorial arrangement (at least

for his volume considered by itself) and is able to treat the various new possessions of the United States each by itself, with its history both before and after American occupation. Professor Latané's book has, however, the wider scope, being a history of the decade 1897-1907; hence it has chapters on American diplomacy in the Orient, the elections of 1900 and 1904 and the chiefly domestic issues involved, the Alaskan boundary, international arbitration during the decade, the Monroe doctrine, the forcible collection of public debts, the Panama canal, immigration and economic questions and tendencies. That all these matters, even those that seem at first purely domestic, are related to our country's new position in the world is further indicated by the fact that four or five of the lectures which Professor Coolidge has put forth under a title practically identical with that of Professor Latané's book are also devoted to these matters of internal development, foreign trade, races and immigration.

It is, of course, too early for the history of the past decade to be written, in any final or complete sense. Recognizing this, all three authors have confined themselves quite closely to exposition, the two historians abstracting, in the main, the published reports that have appeared in bewildering profusion since 1898. Professor McKinley has held most consistently to this course of action, which has involved, of course, the presentation of a rather colorless narrative. That it is better to do so is indicated, however, by the fact that, in almost every case where he has expressed an opinion or summed up for brevity's sake the events of a period or the workings of a policy, he has stepped upon controversial ground. The same is the case with Professor Latané, whose narrative is less impersonal and who has hazarded as fact some statements either doubtful or incorrect.

Not only has Professor Latané covered a wider range of inquiry but he shows a more extended reading of the sources. The American sources, that is; for, like nearly all our writers on these subjects since 1898, Professors McKinley and Latané have disregarded the Spanish sources and have practically disregarded other foreign sources. As regards the Philippine Islands, such a course is absolutely fatal to the attempt to reach any independent judgment upon the situation and events merely of 1898 and thereafter; and, as regards Cuba and the war with Spain, the history can not of course be written properly if the documents of only one side are in requisition. The task that both these historians set themselves seems to have been to abstract merely the American accounts of events. And even Professor Latané, who, as already stated, has ranged more widely in the bibliography accumulated since

1898, has after all really mastered and used only the main documents in the case, those that are already best known. In other words, excellent on the whole as is his work of digest and exposition, it still can not be said to be an authoritative survey, even on the documentary side and from the American viewpoint.

This lack of an authoritative grasp is revealed in what may be termed the two-sidedness of his book. His "Critical Essay on Authorities"—a first-class condensed bibliography of the period—indicates, as does his text, a reliance upon the main official documents for the body and substance of his story. Yet when he expresses opinions or passes judgment, he does so usually as the result of adopting the testimony or views of unofficial reporters, usually hostile critics. He himself says on page 322: "In preparing this volume these [official] documents have been interpreted in the light of magazine articles, newspaper reports and editorials, and oral discussions too numerous, and in many cases too ephemeral, to be recorded."

This adoption of the views of journalist-critics writing for the moment, quite without historical perspective, is most noticeable in Professor Latané's treatment of the management of the army in 1898, and especially of the Santiago campaign. He says the commission of investigation on the conduct of the war tried to "whitewash things." He does not cite, and apparently did not consider, Secretary Alger's book, with its temperate statement of the other side and its assertion that the conduct of the Santiago campaign stands vindicated by results, while the mistakes and failures would have looked small in any prolonged war of real importance. Yet he cites quite frequently Secretary Long's book on the naval phases of the war. The "terrific accuracy" (p. 27) of the American naval gunners is an instance of the acceptance of journalistic reports written without actual investigation. Similarly as to the exaggeration of Dewey's victory; here both he and Professor McKinley would find in the Spanish sources of information on that battle very much to correct in the American reports, both official and unofficial. Likewise, if Professor McKinley had been in possession of the whole story of the *Irene* episode in Subig Bay (not mentioned by Professor Latané), an episode reflecting credit on the Germans for their action in behalf of humanity, his comment on their conduct at Manila would be considerably altered. The point is, the American public has thus far had only a one-sided account of this and various other matters; and, when history comes to be written, it ought to rectify such partial versions.

Professor Latané's account of the negotiation of the treaty of peace with Spain and of the Senate debate thereon (as also of the Supreme



Court decisions of 1901) is written from the anti-imperialist viewpoint. He never even mentions (p. 72; *cf.* also p. 102) what many, if not most, who have carefully examined the evidence will regard as the chief influence in causing President McKinley's demand for the entire Philippine archipelago, *viz.* the obligation incurred by coöperation with the insurgents. Both he and Professor McKinley overlook the real origin and explanation of the \$20,000,000 payment to Spain, though this is plainly revealed in the protocols published in Senate Document 62. Professor McKinley has often been led astray by following Foreman's unreliable statements regarding events in the Philippines before and during 1898.

Both authors likewise find warrant, in the incomplete figures regarding Filipinos killed and wounded, for general statements about the conduct of warfare by the American army which they might still further qualify if they were familiar with the various conditions of warfare in those islands. Their statements are in the main cautious, but Professor McKinley thinks "no quarter" was given (p. 241), and Professor Latané believes it probable that wounded were "ruthlessly slaughtered," and that not only torture of captives but also murder and rape were "too frequently committed." The "water-cure" aside, there is no evidence for a statement with such far-reaching implications.

Somewhat the same effect of contradiction is obtained when the official reports are followed for the account of civil government in the Philippines, while Professor H. P. Willis's book is followed for judgments on its workings. Both authors do this as regards the civil service; Professor Latané does it also as regards the friar-lands settlement and the expensiveness of the government. He says (p. 163): "The Philippines have practically no vestige of self-government." He has not noted the changes of 1905 and 1906 in provincial government, enlarging Filipino participation and voting privileges. He raises a mystery about the salaries of the commissioners (p. 169); they were fixed in 1900 by an order of the president, confirmed by Congress in 1902, and are published annually in the Philippine appropriation acts and in the Philippine civil-service roster. Both authors lay stress upon the Spooner amendment of 1901; in fact, it was disregarded by the administration, which proceeded in the Philippines under the "war power," as before that legislation, until the act of July, 1902, took effect.

One feels that Professor Latané is more at home in questions regarding Spanish-American relations, the Monroe doctrine, arbitration and peace conferences, the Alaskan boundary and diplomatic matters

generally. In the chapters dealing with those matters his touch is surer, the sense of authority more manifest. Here his book, though prepared with a different purpose, proceeds on nearly the same lines as Professor Coolidge's; and in general the two writers are in quite close agreement. There is some advantage, for purposes of comparison, in the fact that the latter's work was originally written for a foreign audience, hence has an attitude rather neutral than simply American. Professor Coolidge has here presented, with some revision, the series of lectures he delivered at the Sorbonne in 1906-1907. Besides the subjects already mentioned, he treats separately the relations of the United States with the four other "world powers," *viz.* France, Germany, Russia and England; with Canada and with Latin America; with China, with Japan and in the Pacific in general. He is optimistic as to the assimilation of our new classes of immigrants in the same way that Germans, Scandinavians, Irishmen and Englishmen have been assimilated in the past; but he leans to the view that Europeans and Asiatics can not mingle. Like Professor Latané, he is quite certain that the Monroe doctrine is a permanent feature of American policy—and, apparently, in its present widened interpretation. Both writers seem unaware of the degree of irritation which President Roosevelt's declarations have excited in Latin America.

Touching the Philippines, their acquisition and their government, Professor Coolidge holds himself quite strictly to the rôle of expositor. Minor errors of fact occur, but few controversial statements are hazarded, though he says (p. 157) that "it is certain that there would have been a large majority in favor of evacuation of the Philippine Islands," if the voters could have passed on it as an abstract question in the election of 1900. Mainly, he is interested in showing what is the American policy in the Philippines in its broad outlines, and here it is refreshing to note the absence of the usual dogmatism of the "colonial expert." Professor Coolidge accompanied the "Taft party" to the Philippines in 1905, and his attitude is one of suspended judgment, while the "Taft policy" has gained his sympathy.

In one respect, Professor Coolidge does express himself very positively, and on a matter of present moment. If the opening of our markets to Philippine sugar and tobacco is to involve preferential treatment for our goods in those islands, he makes vigorous protest (pp. 171, 182, 183) against the policy of such a violation of the "open door" principle, pointing out that there is no essential difference between our tenure there and that of Japan in Korea and Southern Manchuria.

JAMES A. LEROY.

*Ship Subsidies.* By WALTER T. DUNMORE. Boston, Houghton, Mifflin and Company, 1907.—xviii, 119 pp.

This volume is one of the Hart, Schaffner and Marx prize essays. It is a meritorious work, painstaking and unbiased, though brief and necessarily incomplete. The author thinks that a merchant marine is needed to furnish sailors and auxiliary vessels for the war navy and, above all, to give us our own ocean carriers. In case of war involving the maritime countries which now do a large part of our ocean freighting our sea trade would suffer serious damage. Mr. Dunmore acknowledges that a large merchant navy is a weakness in time of war to the country possessing it, but he thinks we should not be dependent upon Great Britain or any other country to carry our produce. He cites the Boer War to show the effect upon our commerce of a little war between Great Britain and an insignificant state without a navy. During this struggle, he asserts, Great Britain took two hundred and fifty steamships of one million tons from commercial use and put them into transport service. He quotes with approval ex-Congressman Grosvenor's statement that, as a consequence, freights rose thirty per cent, and our total exports of breadstuffs fell off from about \$318,000,000 in 1898 to \$251,000,000 in 1900. It is true that our breadstuffs fell off during this period; but it is clear that lack of transportation and high freight rates had nothing to do with this decrease, for our total exports increased. According to the statistics compiled by the Agricultural Department,<sup>1</sup> through-freight rates on agricultural products were invariably higher in 1898 than in 1899, and the rates declined almost universally until 1903, after peace had been restored. It is absurd to assert that Great Britain withdrew a million tons of merchant shipping from commerce during the Boer War. Only a few of the fast mail steamships, which carry no bulky or heavy freights, were employed as navy auxiliaries during 1900 and part of 1901. Of course a war between Great Britain and Germany would seriously affect our commerce, but it would make little difference to our shippers whether we had a large or a small merchant fleet. If the war were carried on according to the Hague rules, the English ships would be quite as immune as American ships from seizure by German cruisers. If, as is most likely, the war should become a more earnest affair, the ships of neutrals would suffer severely. In any case our commerce would undoubtedly be injured, but it would not be destroyed. Whether England carried sixty per cent or six per cent of our commerce in time

<sup>1</sup> See Transportation Rates, Agricultural Year Book, 1906.

of peace would not alter her demand for transports in time of war or for foodstuffs to support her armies and navies. If her own subjects owned the merchant vessels needed for transports, she would buy or hire them from Englishmen; if Americans owned them, she would buy or hire them from Americans; and experience has shown that patriotism has little to do with the price of any commodity needed by government in any emergency. I am not speaking now of the fast vessels which receive postal and naval subventions. These vessels are naval auxiliaries and the government pays a good round sum for the privilege of taking them over in case of war. It is questionable if it would not be cheaper for governments to build their own cruisers and scouts, instead of subsidizing individuals to build vessels that are inefficient both in peace and war.

To secure the desired merchant navy, Mr. Dunmore advocates the policy of free ships in the foreign trade and eventually in the coasting trade, free ship-building material, an extension of the mail subvention act of 1891 and, above all, discriminating duties in indirect commerce. There is no objection to any of these aids, except the last. All of them appear to me to possess the defect or merit of ineffectiveness. The fact is that to possess a large merchant marine we must either spend millions annually in subsidies or wait until we can build and operate steamships as cheaply as any other nation.

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*Railroad Reorganization.* By STUART DAGGETT. Boston, Houghton, Mifflin and Company, 1908.—x, 402 pp.

A "reorganization" is defined by the author as "the exchange of new securities for the principal of outstanding unmatured general mortgage bonds, or for at least 50 per cent of the unmatured junior mortgages of any company, or for the whole of the capital stock." In other words, a reorganization involves a radical and significant reconstruction of a railroad's finances. It is not necessarily associated with impending bankruptcy, although this is usually the case. It may be the result of too great prosperity and of a concern lest such prosperity be too clearly revealed.

The book is a series of careful studies, dealing with the financial history of the seven most important railroads which failed between 1892 and 1896, and the history of one railroad reorganization, the Rock Island, in 1902. A final chapter summarizes the characteristics of such reorganizations and the general principles which have governed in

the construction and execution of reorganization programs. The railroads treated in this book are : the Baltimore and Ohio ; Erie ; Philadelphia and Reading ; Southern ; Atchison, Topeka and Santa Fe ; Northern Pacific ; Union Pacific ; and Rock Island. These studies deserve the highest commendation. While they show great attention to accuracy of statement and an unusual grasp of the sources of information, yet the reader is not burdened with unnecessary detail. Excellent judgment has been displayed in the selection of the significant events and in the omission of irrelevant material. The play of conflicting financial forces is pictured in a style which is incisive and vivid, and the stories of railroad wrecks and recoveries have an absorbing interest.

However, for the general reader who does not desire to follow in detail the experiences of particular railroads, the concluding chapter will have the greatest interest, for here have been gathered together such conclusions as could reasonably be drawn from the results of the individual studies. It would appear that while over-prosperity may be the determining cause of a reorganization, as in the case of the Rock Island or the Alton, yet the typical reorganization occurs when a road ceases to be able to pay interest on its outstanding obligations. This decline in earnings results usually from one of two fundamental causes : first, inflated capitalization ; and second, competition, which reveals itself either in rate-cutting or in reckless extensions of railroad line.

In the case of the typical reorganization, then, it is evident that the problem before the reorganization committee is to make such readjustments as will bring the balance between income and outgo on the right side of the ledger. From this standpoint, the reorganizations treated in this book may be regarded as highly successful ; for while the seven reorganizations before 1893 show actual though not large reductions in fixed charges, the seven reorganizations between 1893 and 1898 reveal very substantial reductions in fixed charges, ranging from six to 51 per cent. The number of bond issues has been reduced, but each issue is in greater volume and for a longer term—a move in the direction of simplicity and in response to a fundamental market demand.

Perhaps the most important conclusion of this study is a confirmation of the wide-spread conviction that reorganizations have materially increased outstanding capitalization. The reasons therefor are not difficult to discover, and seem quite justifiable when one's viewpoint is limited, as it is in this book, to the interests of the corporations and their security-holders. It is a fundamental principle of reorganization

practice to reduce the nominal value of outstanding securities as little as possible in order that the security-holder, who sacrifices something either in reduced interest or in direct cash assessment, may share to the full in any future prosperity. This has resulted in the substitution, for compulsory obligations, of securities in large quantities upon which payment of a return is optional. Before 1893, this increase was largely in securities of the income-bond order; but the deceptive character of these income-bonds seems in later years to have been better appreciated, and preferred stock is now commonly used.

It may be true, as the author shows, that the aggregate market value of the larger volume of securities one year after reorganization was in most cases less than the aggregate market value of the old securities one year before reorganization. However, this is of concern only to the security-holders themselves, and principally to the underwriting syndicates and large speculative holders who have no permanent interest in the corporation but merely wish to unload at a profit. This class does not arouse our sympathy, for it usually manages to get out sooner or later with a comfortable balance.

What is of profound significance to the public, however, is that there has been created an enormous amount of new securities which represent no value whatever. Out of these inflated issues come underwriters' profits; they are often employed to manipulate control of the property and for reckless Wall Street speculation; and most important of all, from the public standpoint, they can be and are used as a powerful argument against any reduction in rates. Not only are these advantages of an inflated capitalization present in such notorious "prosperity" reorganizations as those of the Rock Island and of the Alton, but they have appeared to a greater or less degree in every instance where capital has been increased, and they have doubtless been in the mind of every reorganization committee which has pulled a corporation out of the mire of bankruptcy. The author could not have been unaware of this important consequence; and its omission from his conclusions is doubtless due to the very evident limits which he set for himself in the discussion of the problem.

Too much praise cannot be ascribed to this scholarly book. It approaches the study of corporation finance from the right direction. It is only on the basis of such painstaking investigations of financial history and procedure as this volume reveals that we are justified in indulging in generalizations concerning the financial practices of American railroads.

FRANK HAIGH DIXON.

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*Nordamerikanische Eisenbahnen, ihre Verwaltung und Wirtschaftsgebarung.* By W. HOFF and F. SCHWABACH. Berlin, Julius Springer, 1906.—xii, 377 pp.

Every student of transportation must welcome an impartial, detailed criticism of American railway administration and a comparison of German and American practice. The authors of the book under review are officials of high rank in the Prussian Railway Bureau, who visited the United States in 1904, the year of the St. Louis exposition, traveled nearly ten thousand miles over railroads between Boston, San Francisco and Portland, collected much printed material, interviewed numerous railway men and then put their information and impressions into a well-written volume.

They did not travel over the roads of the southern and southwestern sections of the United States, and they rode upon the best equipped trains; but they were so well informed upon transportation questions that they were able to obtain a general knowledge of our railway service.

Their book, being written for German readers, is devoted mainly to a description of American railway administration and an explanation of the differences between German and American practices, but from beginning to end of the volume there are candid statements of the authors' impression of our railroad service. These impressions are on the whole favorable; and in all the opinions expressed, whether laudatory or otherwise there is a most commendable fairness and objectivity. The volume contains the best foreign critique of American railways that has appeared since 1885, when von der Leyen published his standard work on *Die nordamerikanischen Eisenbahnen*.

To the American as well as to the German reader the comparison of the services and charges of American railroads with those of the Prussian-Hessian state railways will be interesting. Only a few of the more important results can here be noted. It is generally maintained that government management of railways necessarily means bureaucratic method, much red tape and a large clerical force; but the authors of the volume adduce evidence showing that for an equal volume of business more clerks and other employees are required upon the railways in the United States than upon those of Prussia. Moreover, it is shown that if American railway companies were required to employ watchmen and guards in such numbers as to provide as fully as does the Prussian-Hessian railway administration against injuring and killing people, the number of employees on our railroads would need to be

increased forty-two per cent. The accident statistics of the two countries are so analyzed as to show that our railways kill six and a half times and injure twenty-nine times as many passengers as do the Prussian-Hessian railroads. After pointing out clearly the impossibility of making precise comparisons of American and Prussian fares and rates, the authors present tables and other data from which the general conclusion is drawn that in the United States the passenger fares are more than double the Prussian, and the freight charges are somewhat higher. The discussion of freight rates is particularly interesting, although not fully convincing. As regards the much debated question of the economy resulting from the use of large-capacity freight cars, the authors are of the opinion that the use of fifty-ton cars for mineral traffic and forty-ton cars for other kinds of heavy freight has been economical in the United States; but that the twenty-ton wagon is better adapted to German conditions; and their conclusion is doubtless sound.

A translation of the volume into English has been published in New York, but it is expensively printed and is sold only by subscription at a prohibitive price. It is to be hoped that an inexpensive reprint of this translation may soon make the work available to all students of American and German railways.

EMORY R. JOHNSON.

UNIVERSITY OF PENNSYLVANIA.

*L'Industrie américaine.* By ACHILLE VIALATE. Paris, Felix Alcan, 1908.—492 pp.

The interest of Frenchmen in American economic problems is evidenced by the publication in the last decade of several careful and important investigations of our industrial development by French scholars. Ten years ago Professor Levasseur published his *L'Ouvrier américain*, which was followed by descriptions of our railways by Dubois, of our trusts by Raffalovich and de Roussiers, and of our economic development by Professor Leroy-Beaulieu. The work of Professor Vialate is in a way more ambitious than any of its predecessors, for it endeavors to cover the whole field of our economic activities, historically as well as analytically. It is divided into three parts, of which the first traces the historical development of our industry and our commercial policy; the second part, comprising about half the book, describes the organization of industry; the third deals with our recent commercial expansion.



The historical sketch of our industrial evolution begins with the adoption of the constitution and divides the time down to the present into five periods, ending respectively in 1807, 1834, 1860, 1885 and 1905. While some of these divisions are obvious and mark important epochs in our economic life, as 1807 and 1860, the others are evidently selected with reference primarily to tariff changes. This indicates the chief criticism that must be made of this part: entirely too much emphasis is laid upon our external commercial policy, and it is treated as a cause of important internal economic changes, whereas it was more often a result than a cause. Such a treatment is more excusable in a foreigner than it would be in an American writer, but it nevertheless vitiates many conclusions and gives an emphasis to the tariff which it does not deserve. The material for this part was drawn almost exclusively from secondary authorities; of the forty-five books or articles cited, twenty-five deal with the tariff. But perhaps fault should be found here with the too exclusive interest this topic has hitherto had for our economic historians, which has made the literature available for a unified study of our industrial development very uneven.

In the second part, which treats of the organization of American industry, the author is again led, partly by his own interest and partly by the unequal distribution of the literature on this subject, into an over-emphasis of the part played by labor. In general, he has selected for description the striking and interesting phases of our industrial life rather than the typical or common. In the chapter on "Machinery and the Organization of Labor," for instance, he describes as customary the practice of some large firms of spending a certain sum annually on experiments, of scrapping ("scrapping," it reads) machinery rendered obsolete by new inventions (which he attributes, in part, "to a spirit of coquetry and of advertising") and of using the suggestion system, by which the interest of employees is enlisted in suggesting improvements. On the other hand, he devotes but little space to the use of machinery and the division of labor.

The danger to Europe from an invasion of American manufactures Professor Viallate thinks greatly exaggerated. He considers the Canadian, Mexican, South American and Oriental markets more important to the United States in the future than those of the industrially more developed nations of Europe. As projects designed to facilitate such intercourse he mentions the improvement of our internal waterways, the Pan-American railroad, the Panama canal and the upbuilding of our merchant marine.

Taken as a whole, Professor Viallate's description of American in-

dustrial conditions offers little that is new to American readers, though it will undoubtedly prove interesting and instructive to his countrymen. The writer has already published numerous articles on the tariff, trusts, money and commercial policy of this country, and shows himself well acquainted with conditions here. One has a strong impression, however, that this acquaintance is largely second-hand and has been gained by industrious reading rather than by personal investigation.

ERNEST L. BOGART.

PRINCETON UNIVERSITY.

*Work and Wages: Part II: Wages and Employment.* By SYDNEY J. CHAPMAN. London and New York, Longmans, Green and Company, 1908.—xxii, 494 pp.

Part II of Professor Chapman's *Work and Wages* deals specifically with the theory of wages, labor organizations, the policies of trade unions, the principles and methods of industrial peace, unemployment, and workmen's insurance and old-age pensions. Like Part I, on *Foreign Competition*, it is a compendium intended especially for the information of English readers. Its presentation of the essential facts in regard to the progress of the United Kingdom in these different fields is full and authoritative, and its discussion of unsettled problems is temperate and suggestive.

Unfortunately the very qualities that should commend it to English readers render it of little value to readers in other lands. For them its treatment of English conditions is, if anything, too full and its treatment of the experience of other countries too meager and, it must be added, not up-to-date. Criticism on these grounds of a book not intended primarily for foreign consumption is obviously hardly fair. As a foreign reviewer, however, I may be pardoned for enlarging on this aspect of Mr. Chapman's book, since it is naturally the one in which foreign readers are chiefly interested.

The discussion of labor conditions and labor policies in the United States illustrates, no doubt in an exaggerated way, the defects in the book from the point of view of the non-English reader. Thus in the chapter on "The Organization of Labor," 18 pages out of a total of 111 are devoted to this country. The information presented is derived chiefly from the *Report of the Industrial Commission* (1902), Levasseur's *American Workman* (1900), Brooks's *Social Unrest* (1903), and Muensterberg's *The Americans*. The inevitable result of depending upon authorities, no one of which is less than five years old,

is that even in this brief sketch numerous statements are made that are either inaccurate or no longer significant. A few examples may be given. The implication of the statement (p. 85) that "in New York alone is the number of incorporated trade unions at all large" is, as every one at all familiar with organized labor in this state knows, quite misleading. Again, after the prominence given in the presidential election of 1904 to Judge Parker's part, as chief justice of the New York Court of Appeals, in rendering the decision in *National Protective Association v. Cummings* (1902, 170 N. Y. 315), upholding the right of members of a trade union to prevent the employment of non-members, the declaration (p. 87) that "it is not known yet (so far as we are aware) what will be the attitude of the Court of Appeals" of New York on this question, sounds strange in a book bearing the date 1908. Equally an echo from the past is the statement (p. 81) that "holding aloof from politics" is a prominent characteristic of the American Federation of Labor. Finally, the declaration (p. 83) that "in the tobacco trades there are very few who are not members" of trade unions must hearten the members of the only really strong union in the trade, the United Cigar Makers, in the seemingly hopeless struggle they have for several years been waging for their very existence. As a matter of fact the tobacco trades are among the least organized and worst paid employments in the United States.

Serious as are these misstatements, they are less reflections on Professor Chapman than illustrations of the rapidity with which conditions are changing in the American labor world and of the poverty of this country in that literature of explanation and comment without which no foreign student can be expected to avoid mistakes when he undertakes to describe unfamiliar conditions. That we are ourselves partly to blame for the misstatements cited is indicated by the superiority of the sections dealing with French and German conditions.

Professor Chapman's general attitude on the labor problem is that of a broad-minded and well-informed economist. Particularly suggestive, in the light of the subsequent enactment of the British old-age-pensions law, is his careful balancing of the arguments for and against this method of caring for the aged poor and his conclusion that, while the policy itself might prove advantageous, there are other lines of expenditure tending to increase the efficiency and mobility of British wage-earners that would be even more beneficial. Those who differ from him on this point will at least agree that the other lines which he advocates must on no account be neglected.

HENRY R. SEAGER.

*The Negro Races.* By JEROME DOWD. New York, The Macmillan Company, 1907.—xxiii, 493 pp.

This volume is announced as the first of a series of works in which Mr. Dowd intends to present a sociological study of mankind from the standpoint of race. The task is an ambitious one, and it is apparently undertaken with a serious purpose. The greater is the discouragement with which we lay aside the book; for the material presented is sadly deficient in accuracy and in completeness, and the point of view is vague and one-sided. The time seems still remote when sociological and anthropological investigators will understand that an uncritical collection of data drawn from the superficial reports of travelers cannot form the basis of safe conclusions. The author conveys the impression of painstaking accuracy by copious notes; but among the books quoted Ratzel's *Anthropogeographie* and *History of Mankind*, Featherman's *Social History of the Races of Mankind*, Reclus's *The Earth and Its Inhabitants*, Stanford's *Compendium of Geography* and Keane's *Man, Past and Present* take a prominent place. Whatever the usefulness, relative accuracy and completeness—or inaccuracy and incompleteness—of these books may be, they are compilations, not sources which can be used to substantiate far-reaching conclusions. On the other hand much of the really important literature has not been used at all. For instance, I have not found the name of Nachtigal, without whose contributions any presentation and interpretation of the ethnic phenomena of the central Sudan seems quite impossible. For the Guinea Coast Ellis is the authority almost exclusively quoted, but Spieth's fundamental work on the Ewe is not mentioned at all. The marvelous development of art and industry of Benin seems to be entirely unknown to the author. All he has to say about the architecture and art of this district, which challenge our admiration and which have been made the subject of many extended descriptions and discussions, is the following:

In the line of painting and drawing this zone has almost nothing to offer . . . In sculpture and carving the quantity is great and the quality is poor . . . The carving of weapons, tools, *etc.*, however, is sometimes very good . . . There are scarcely any attempts at construction or the ornamentation of houses . . . The natives of this zone have a large stock of folk-stories, which, however, have no particular meaning or moral [pp. 335, 336].

Thus the general presentation of the ethnological facts relating to the areas discussed is quite unsatisfactory.

The arrangement of the material suffers by the emphasis laid upon anthropogeographical considerations in an area the ethnic conditions of which can be understood only on the basis of a study of the historical relations of its inhabitants. Setting aside the point that the combination of the Negroes of the Sudan and of the tribes of the southern Sahara in one racial group is quite unjustifiable, the classification of the tribes as those of the banana, millet, cattle and camel zones is as artificial as would be a classification of the people of the United States into peoples of the oats, maize and orange zones. While the climatic conditions in central Africa are of great economic importance, the ethnic phenomena depend here, or elsewhere, primarily on historical relations. The distribution of inventions in Africa, as traced by Ankermann and Frobenius, and accumulating evidence from the Niger region as well as from eastern Africa show clearly that the forms of culture of the African continent must be considered and interpreted in their mutual interrelations and in their relations to Asia and Europe. Attempts to explain political and other conditions of particular areas, entirely, or even mainly, by geographical considerations, will never be successful; and the treatment of this subject by the author appears to the reviewer to be quite arbitrary and little more than an attempt to fit selected data to preconceived notions. Thus the claim that density of forest makes political organization over larger territories impossible and that it has prevented the development of agriculture among the Pygmy tribes is open to the most serious doubt.

Not less open to criticism are the generalized statements regarding the negro's physiological and mental characteristics. What does it mean when we read that the negro's skull in the banana zone is characterized by a receding forehead?—as though the present distribution of types had any causal relation to the narrow geographical units which the author is considering. In his discussion of mental traits the vaguest data are constantly made the basis of the most far-reaching conclusions. "The natives of this zone have never dreamed of a cart" is given as a proof of lack of inventiveness—as though this invention had been made more than once or, at best, more than a very few times, and had reached a general distribution before the spread of the Europeans over the world. Again, "that the inhabitants of this zone are deficient in reasoning power, is sufficiently attested by the absurd superstitions connected with their religion." By this standard our own ancestors, together with the rest of mankind, stand equally condemned.

I might go further in the exhibition of ill-founded generalizations and in the demonstration of lack of critical discernment in the assembling

of data which are characteristic of the book, but the few illustrations here given suffice to show that the author has failed to fulfill even modest requirements of a scientific treatment of his subject.

FRANZ BOAS.

COLUMBIA UNIVERSITY.

*The Common Sense of the Milk Question.* By JOHN SPARGO.  
New York, The Macmillan Company, 1908.—351 pp.

Milk is the most important food which we consume in its natural state. On its abundance, purity and cleanness the lives of all children depend during some period of their infancy; it is almost the sole diet of invalids, and it is an important article of diet for many adults. Yet in so primitive a stage are its production and distribution that it is no exaggeration to say that few consumers of milk can always be sure that they are not drinking a poison. The world is at last awaking to this appalling state of affairs, and scientists and philanthropists are joining hands in the work of reform.

The problem of obtaining a good milk supply is highly complex and difficult of solution, and its importance is not generally understood. Even if the layman could comprehend the technical language in which the literature of the subject is written, he would be dazed and lost in the maze of conflicting conclusions. There was needed a book which, while strictly scientific, should discuss in simple language the various phases of the problem and present the latest scientific conclusions on questions still mooted. Such a book has now appeared in Mr. Spargo's *Common Sense of the Milk Question*. The author has prepared himself for his task by careful investigation of a vast amount of technical literature, by placing himself in communication with authorities all over the world, and by extensive observation in the field. The first part of the work emphasizes the importance of good milk and points out in what respects the present system of supply fails to furnish it. The second part treats of remedial measures and outlines a program of reform. There are a number of valuable appendices, a list of all authorities cited and an excellent index.

Modern society, begins the author, faces a declining birth-rate. The dread of Malthusian over-population has given way to the fear of Rooseveltian race suicide. Along with the declining birth-rate has come the growing inability of mothers to nurse their offspring. This loss of the power of lactation is a world-wide phenomenon, affecting women of all classes, except perhaps those who live in the country. In the cities it affects the woman of education and leisure as well as the

factory worker. "In case of the woman factory worker, a contributing cause is the excitement of city life with its haste and strain and its enormous psychological and physiological demands." "More than half the mothers of central Europe," says a noted authority, "are unable to nurse their infants." This inability of mothers to provide nourishment for their infants necessitates artificial feeding. This state of affairs exacts a terrible and enormous death toll, as the mortality of infants artificially fed is thirty times as great as that of those breast-fed. While the past decade has witnessed a reaction in favor of mothers nursing their infants whenever possible and a crusade has been started to insist on its importance, nevertheless we are still confronted with the indisputable fact that, in the majority of cases, the failure is due to physiological causes and that consequently a substitute for mother's milk must be found. Proprietary infant foods are condemned. If all factors be taken into account, the milk of the cow must be considered the best substitute. But clean, pure milk is the exception, and this goes far to account for the frightful mortality of infants fed on cow's milk. Even when great care is exercised in production and handling, milk is exceedingly perishable and it is easily contaminated. Ignorance, carelessness or criminal manipulation makes it unfit for infant feeding. Not only are cows themselves subject to disease, but as a result of their human environment their milk often becomes infected with disease germs, so that frightful epidemics of milk-borne diseases are frequent.

It is almost impossible to obtain absolutely germ-free milk and we must be content with fixing the limit of safety. Von Behring places this limit at 1000 bacteria per cubic centimeter (15 drops) for milk intended for nurslings. But such purity is rare. Under present conditions of production, we are fortunate if we can get milk with not more than 30,000 or 40,000 bacteria per cubic centimeter. It is true that only a small percentage of the germs may be pathogenic, but their presence in such enormous numbers makes the milk unfit for infant food. In the United States 95,000 children die annually from preventable causes; in France three-fourths of the infantile deaths might be prevented; and that impure and infected milk is one of the chief factors in this excessive infantile mortality no living authority questions.

In the light of the above facts, the author asks what remedial measures shall be taken. His principal conclusions are as follows: Municipal milk depots to supply milk for infant consumption should be established in all large cities. Such institutions are no longer in the experimental stage. In Europe they have given excellent results; in the United States they have been badly managed and have been of doubt-

ful value. But the splendid results obtained by the city of Rochester must be mentioned. An efficient milk commission enforces rigid inspection, and, by educating the dairymen and winning their sympathy, it has revolutionized the milk supply. A municipal milk depot is maintained during July and August. At first the depot furnished pasteurized milk; but in 1899 special contracts were made with farmers for the furnishing of milk of extra quality and pasteurization was abandoned. The results are truly remarkable. From 1888 to 1896 there were 1999 deaths of children under five years of age during the months of July and August; during the same months from 1897 to 1905, there were only 1000 deaths, although the population had increased by about twenty per cent.

For babes no general milk supply in the world is sufficiently good, and a special supply must be provided. The certified milk movement is good as far as it goes; but since this milk brings double the price of ordinary milk it is beyond the reach of the poor. Private philanthropy, as typified in the Straus depots, has been a great boon; but such work, when left to private initiative, is of uncertain permanence. The author argues that it is the duty of the municipality to undertake the production and distribution of milk specially intended for infant consumption at a price within the reach of the people. "We do not need infants' milk depots as charitable institutions, but rather as common, public necessities, to be used by all classes in the community as the public schools now are."

While the author believes that pure raw milk is preferable and that pasteurization encourages carelessness, he insists that pasteurization must be resorted to until we are in the position to supply raw milk the cleanness and purity of which are above suspicion.

It seems ungracious to criticise so excellent a performance of so difficult a task, but the reviewer is constrained to except to certain of the author's positions. A careful reading of his book leaves the impression that he has not given sufficient attention to the problem of a pure milk supply for children and adults. While it is true that there must be special provision of milk for infants, experience in other countries and our own shows that such milk can often be best obtained by producing it in connection with commercial milk. As a general thing, after children pass the age of one year, their diet becomes more varied; they no longer require modified milk, but are given such milk as is provided for the rest of the family. This milk is usually unfit for them, and something ought to be done to remedy the evil. The infant milk depot ought not to be expected to furnish milk for normal



children over one year old, and commercial milk producers ought to be encouraged to supply, at a slightly higher price, specially good milk for children, drawn from picked herds. Even to-day there is no good reason why such milk, pure enough to need no pasteurization, could not be furnished to all our cities at a price not more than one cent higher per quart than that of ordinary milk. Such milk is provided in Copenhagen and in some of the smaller German cities, for example, in Cassel. There is need to encourage a larger consumption of milk by children, for even the casual observer must be aware that milk does not form a sufficiently large part of their diet and that much mortality is the consequence.

Mr. Spargo's suggestion that a National Milk Reform Association be formed should meet with a sympathetic response.

In the case of such a book as this, it would be well worth while to adopt the English custom of publishing a shilling edition for general circulation; and it is to be hoped that the author may see his way clear to render this real social service.

JESSE E. POPE.

NEW YORK CITY.

*State and Local Taxation.* Addresses and Proceedings of the First National Conference under the Auspices of the National Tax Association, Columbus, Ohio, November 12-15, 1907. New York, The Macmillan Company, 1908.—xx, 675 pp.

This volume contains the forty-eight papers read at the first annual tax conference held under the auspices of the National Tax Association, the rather brief discussions which they elicited, and the "resolutions and conclusions adopted by the conference." It constitutes an important contribution to the literature dealing with American methods of taxation. Some of the papers portray and explain the confused and thoroughly unsatisfactory state of fiscal affairs which obtains in most of our commonwealths; others present the experience of given states in the taxation of mortgages, credits *etc.*; while still others offer suggestions as to desirable reform measures. Many of them will be helpful to legislators, while the entire collection will be greatly appreciated by college classes in taxation.

Of course the essays under review differ greatly in value, and some of them contain much that is open to adverse criticism. Criticism, however, is out of the question in a brief review, and the following general statements must suffice to characterize the volume.

Mr. Judson's paper on interstate comity in taxation and that of Pro-

fessor Loeb on constitutional limitations affecting taxation are excellent in every way. The same may be said of Professor Coray's and Professor Mixer's papers on taxation of mortgages in Utah and Vermont, and of Professor MacCracken's paper on the taxation of real estate and improvements in New York. Professor Le Rossignol's paper, on the rating of unimproved values in New Zealand, will be of interest in connection with the single tax, while Professor Davenport's paper on the taxation of unearned increment is a distinct contribution on that subject. The merits of the habitation tax are well presented by Professor Phillips.

The matter of the separation of state and local sources of revenue is frequently touched upon in the addresses, and is discussed at length by Professors Seligman and T. S. Adams. The former, who regards such separation as the "indispensable initial step to any substantial progress" in tax reform, gives us the best argument thus far advanced in favor of such action, with an interesting but perhaps not entirely convincing discussion of the methods of obviating the disadvantages found to be involved in complete separation as it has been practiced. Professor Adams, on the other hand, lays emphasis on certain disadvantages connected with the complete separation of sources and with "home rule" in taxation, and presents with great force several points which, to the reviewer's mind, needed to be brought out. The paper will repay most careful consideration.

The "Outline of a Model System of State and Local Taxation" presented by Mr. Purdy contains much that will appeal to experts. Professor Willis's paper on the relation of federal to state and local taxation should be read in connection with Mr. Purdy's, for it contains some important considerations which are frequently overlooked in outlining model systems.

The "resolutions and conclusions adopted by the conference" are five in number. The inheritance tax "should be reserved wholly for the use of the several states"; restrictive provisions should be eliminated from state constitutions in order that proper methods of taxation may be introduced; property should not be taxed by two state jurisdictions at the same time, and retaliatory tax laws should be repealed; all public debts should be exempted from taxation; divorcement of state and local systems of taxation and "home rule" are mildly and somewhat equivocally endorsed. These findings mark a good beginning and will appeal to every student of taxation.

H. A. MILLIS.

STANFORD UNIVERSITY.

*Local and Central Government: A Comparative Study of England, France, Prussia and the United States.* By PERCY ASHLEY. New York, E. P. Dutton and Company, 1906.—xi, 396 pp.

This work purports to be a comparative study of local and central government in England, France, Prussia and the United States, but the only consideration which the United States receives is contained in a short chapter on the government of American cities. The central governments of the other countries are considered only in so far as they share in the work of local administration or exercise control over the constitution or activities of the local authorities. The book therefore practically narrows itself down to a comparative study of local government in England, France and Prussia. As such it is an admirable elementary treatise. In the first place, the author gives a comparative résumé of the principal differences between the English and continental theories of local government, with particular reference to central control of local administration. He then takes up England, France and Prussia in turn, devoting a preliminary section to the consideration of those central organs of each, like the Home Office, the Local Government Board, the Board of Education and the Board of Agriculture in England, which are concerned in any way with local government. This is followed by a more detailed study of the local governments of each country, the author pointing out, as occasion offers, the elements of difference and resemblance, and emphasizing in particular the contrasts between English and continental methods. There are also chapters on the history of local administration in each of the three countries, the relation of the legislature to the local authorities, the control of local finances, and the control of the local authorities by means of the administrative and judicial courts. Of a somewhat general character is the chapter on administrative law, in which the author contrasts, somewhat after Dicey's method, the Anglo-American and continental conceptions of administrative law; analyzes the reasons for the non-existence of administrative law as a distinct branch of jurisprudence in England; and discusses the nature and functions of the administrative courts as they exist in France and Prussia and the reasons why such tribunals are held to be necessary.

As an elementary treatise Mr. Ashley's book deserves praise. It is concise, well arranged, singularly clear and interesting. It would make a very useful supplementary text for an introductory course in the comparative study of government.

J. W. GARNER.

UNIVERSITY OF ILLINOIS.

*Trattato di diritto internazionale privato secondo le convenzioni dell'Aja.* By G. C. BUZZATI. Volume I: *Introduzione. Il Matrimonio.* Milan, Francesco Vallardi, 1907.—xvi, 448 pp.

The appearance of a work like the present reminds us that a great change is taking place in the law of European countries relating to the conflict of laws, or international private law. This is due to the conventions elaborated at the Hague in the four official conferences of 1893, 1894, 1900 and 1904. As a direct result, treaties are now in force, ratified by at least thirteen European nations, regulating the conflicts of law in respect of (1) civil procedure, (2) marriage, (3) divorce and separation and (4) the guardianship of minors. For action by future conferences, there already exist treaty projects to regulate the conflict of laws in respect of succession, rights in things, parental relations, obligations and proof of foreign law.

Dr. Buzzati is a teacher of international private law and was one of the Italian delegates to the fourth Hague conference. He has set out to follow a somewhat ambitious program, for he intends to cover the entire field of international private law as it has been or shall be established by treaty.

His introductory chapter (149 pp.) is devoted to a history of the movement which led up to the Hague conferences. In this, the Italian government, under the leadership of Mancini, took the initiative as early as 1861 and renewed its efforts twenty years later when Mancini was minister of foreign affairs. Though Italy was the pioneer, it was left for the government of the Netherlands to overcome the difficulties, and under its auspices the conferences accomplished definite results.

The rest of the volume treats of conflicts of law in questions of marriage. The material is therefore coextensive with the second treaty ratified by the powers. As the treaty did not become effective until July 31, 1904, the reader will find very little in the way of interpretation or application of the treaty provisions by courts or administrative officials. The author apologizes for this (Preface) and undertakes to compensate for it by reference to the local laws of each of the countries and by pointing out the changes in law and practice which the treaty has presumably occasioned.

The material is divided into six long chapters, in which are treated: (1) capacity, (2) rules of public order at the place of celebration, (3) proof of capacity, (4) the ceremony, (5) diplomatic and consular marriage and (6) the application of the treaty. Under each chapter except the last, the internal law is discussed in an alphabetical ar-

rangement by countries. The plan has its advantages in that it affords a comparative view of legislation upon each of the sub-heads, but the result tends, in parts, to be too disjointed for a legal treatise. The author's main purpose, to reflect the alteration of substantive law by the treaty, is obscured.

In some instances he seems to lose sight of this purpose ; for he goes outside the territory of the treaty union and, for example, examines the laws of the American states in respect of the capacity to marry. These, it is true, may have a bearing under the treaty, because the basic principle established therein is the respective *lex patriæ* of the contracting parties, one of whom may be an American citizen and the other a citizen of one of the treaty states, while the marriage may be contracted in another treaty state. We cannot follow him, however (*e. g.* p. 141), if we correctly understand him to apply the treaty to the question of the capacity of a citizen of Dakota to marry a German in Germany, for since the United States is not a party to the treaty there is no element of international obligation. We must not be misled by article 8, which makes the treaty applicable "only to marriages solemnized upon the territory of the contracting powers between persons, one of whom at least is a subject of one of these powers." It is impossible to speak with full assurance, on account of the lack of recorded decisions, but it would seem to the reviewer that this article is not declarative but restrictive. The author further assumes that the law of American states setting up the *lex loci actus* as authoritative is equivalent to a *renvoi* to that law. Here again we should read with caution, as authorities are greatly at variance on the question whether such local rules have the force of a *renvoi* in determining the capacity to enter into the relation. It would appear that the best authority, including that of the Institute of International Law (*Annuaire*, XVIII, 179) has been against such an interpretation. In other words, if under the law of the particular American state the party had not the capacity to marry he should not be deemed to have it at the place of the ceremony, for the *lex patriæ* forbids it ; and the *lex patriæ* governs notwithstanding the fact that American practice refers the question of capacity to the *lex loci actus*. Though the doctrine here advocated has not been uniformly recognized, a more thorough examination of European decisions would have shown that the courts of a number of jurisdictions within the treaty union have definitely adopted it.

Much space, especially in the third and fifth chapters, is devoted to problems which are administrative rather than judicial, but this adds to rather than detracts from the value of the book, owing to the existence

in European countries of tribunals with purely administrative functions but with quasi-judicial organization and procedure. Thus the book enables us to obtain a more homogeneous view of the operation of the treaty.

It is to be observed that the conferences have not attempted to unify legislation upon any subject, least of all in respect of marriage. On the contrary, the presumption of variance in legislation forms the very basis of the work of the conferences. What has been done, however, is to create by treaty a uniform system of solving the conflicts, so that a juristic act, once completed, shall be judged by the same system of substantive law, no matter in what forum the act be ultimately judged.

It is the author's purpose to present the law according to the conventions, and he does not undertake to criticize the conventions themselves. The many limitations and exceptions embodied in the treaty upon the demand of some states, in favor of the application of their own laws, might well have tempted him to engage in academic discussion; there is, for example, a saving clause in favor of the exclusively religious sanction prescribed by the Russian law of marriage which invites comment; but Dr. Buzzati has remained consistently and commendably practical.

ARTHUR K. KUHN.

NEW YORK CITY.

*The Process of Government: A Study of Social Pressures.*

By ARTHUR F. BENTLEY. The University of Chicago Press, 1908.—  
xv, 501 pp.

Most of the writers on government in the United States have confined their efforts to descriptive work, and for that reason Mr. Bentley's attempt to get below formalism into the governing process as a manifestation of social pressures deserves serious consideration, even though he is at times tedious and at other times unnecessarily rude to his predecessors in the field of politics. One-half of his book is severely critical—an attempt to make short shrift of all the publicists and sociologists who have sought the causes of social processes in types of mind, feelings, faculties and opinions. No one escapes Mr. Bentley's sharp pen: Small, Spencer, Westermarck, Pearson, Giddings, Dicey and others are dealt with in a manner that would be more engaging were it more courteous, but which nevertheless has much that is instructive and convincing. The method and spirit of the author and the kind of political writing he especially disapproves may be best illustrated by a single quotation:

Discussing factory legislation, Dicey quotes from Shaftesbury a list of men who opposed it—Peel, Graham, O'Connell, Gladstone, Brougham, Bright and Cobden—and says that while Shaftesbury was puzzled at their opposition, the truth of the matter was that they were all "individualists" and the genuine explanation of their anti-factory legislation lies in that point alone. One laughs. We know enough of the industrial interests and affiliations of most of the men on this list to feel certain that theory was a minor consideration for them, however much it was in theory's name they urged and argued. Shaftesbury himself speaks of "millowners, capitalists and doctrinaires" as opposing him, with the doctrinaires in third place. . . . One can fairly drop the individualistic explanation of the opposition to such legislation [p. 148].

In short, Mr. Bentley will have nothing to do with what he calls mind-stuff, doctrines, ideas, ideals and, generically, "spooks," as the ultimate factors in the pressures which direct the governing process.

Where, then, are the real factors to be found? This question our author answers in his chapter on the "Raw Material of Government." The raw material or the real stuff of government

cannot be found in the "character of the people," in their specific "feelings," or "thoughts," in their "hearts" or "minds." All these are hypotheses or dreams. Whatever truth or other importance they possess, they are certainly not "raw material," but instead highly theoretical. The raw material can be found only in the actually performed legislating-administering-adjudicating activities of the nation and in the streams and currents of activity that gather among the people and rush into these spheres [p. 180].

With this very positive feeling for the intimate essence of government, Mr. Bentley examines in terms of current politics many of the favorite notions of political science: public opinion and leadership, the classification of governments, pressure of interests in executive, legislative and judicial departments, political parties and electorates; and in every instance he has made effective use of the idea of "group interests," as distinguished from class interests in the Marxian sense, which Professor Clark has rendered so fruitful in the domain of economics. The author's mode of applying his leading principle is fully illustrated by his conclusion concerning the problem of classifying governments:

Wherever and whenever we study the governing process we never get away from the group and class activities, and when we get these group activities properly stated we come to see that the differences between governments are not fundamental differences or differences of principle, but that they are strictly differences of technique for the functioning of the interests, that they are adopted because of group needs, and that they will

continue to be changed in accordance with group needs. . . . The American president can be invested with a most tremendous representative force or reduced to a nonentity, all within a year or two, and without changing the "constitution," merely according as the group pressures work successfully through him or through other branches of the government.

Mr. Bentley makes no pretension to have constructed a new "system of political science," nor is the burden of his argument original; but he has undoubtedly written a thought-provoking book that will help to put politics on a basis of realism, where it belongs.

CHARLES A. BEARD.

*Morals in Evolution.* By L. T. HOBHOUSE. New York, Henry Holt and Company, 1906.—Two volumes: xvii, 375; vii, 294 pp.

On the title-page and frequently throughout these two volumes Mr. Hobhouse speaks of his work as "a study in comparative ethics." He explicitly recognizes, however, that this designation is not merely an alternative for "morals in evolution." In the preface, for example, he states:

No hypothesis as to the causes of evolution is required. Even the hypothesis of evolution itself is not strictly necessary. Our object is to distinguish and classify different forms of ethical ideas—a morphology of ethics comparable to the physical morphology of animals and plants. The results of such a comparative study, if firmly based on recorded facts, would remain standing if the theory of evolution were shattered.

The two titles suggest, thus, the question: Does the study of comparative ethics reveal an evolution of morals? Mr. Hobhouse has pursued his investigations with this question constantly in mind. Although he concludes with an affirmative answer, his conclusion is reached with caution, as a result for which there is important evidence. He consequently regards as a problem what many an enthusiast for evolution would take for granted. This conservatism and hesitancy give the book, as a whole, great scientific value. There is no occasion to suspect that facts have been ingeniously selected to support a theory, or that a theory has so occupied the mind of the investigator that facts are seen only in its light.

The two volumes mark a natural distinction in the data with which ethics has to deal. On the one hand there are the actual ethical standards, the moral institutions, to which conduct is expected to con-



form. These constitute the subject of the first volume under the title "The Standard." On the other hand there are the reasons men give for the validity and binding force of their standards. These are considered in the second volume under the title "The Basis." In making this distinction the author recognizes the fact that the standards of morals are seldom determined by the bases on which they are thought to rest. For, naturally, the reasons assigned for modes of conduct are the results of reflection, while conduct itself results mainly from the pressure of circumstance and tradition. Furthermore, a basis or sanction of conduct is usually a reason why particular lines of conduct *ought* to be pursued rather than the reason why they have been pursued. Practice, consequently, often falls far short of the moral basis and even contradicts it.

If, therefore, we are to discover any genuine evolution of morality—so, at least, the reviewer construes Mr. Hobhouse's argument—we must find not only that standards and bases have progressed with some degree of continuity and conformity to principle, but also that standards become rationalized in the light of the bases which are invoked to support them. Only thus can we approach an answer to the question, "Whether there is any broad and general tendency in historical evolution giving meaning and value to the long tragedy of human development?" This is the final question which Mr. Hobhouse hopes his investigation will help us to approach.

The standards examined in the first volume are considered under the following general types: (1) law and justice, (2) marriage and the position of women, (3) relations between communities and classes and (4) property and poverty. On these topics Mr. Hobhouse presents the results of thorough and extended research. The material he has collected forms a rich body of representative and well-attested facts which give the reader a vivid picture of the variety of ethical standards prevailing in different forms of social organization. As already noted, the author does not appear to have selected his facts to support a particular theory, but his method of grouping and presenting them seems to have markedly influenced the selection and restricted the scope of the inquiry. Although he proposes first to discover the types about which the various forms of institutions tend to group themselves, and, secondly, "to consider whether the types of each institution tend to correspond with any particular stage in the development of social culture," we cannot avoid the suspicion that the search for such correspondence has restricted the inquiry to the limited number of topics noted above. This suspicion is strengthened by the fact that

the second chapter of the volume deals with the "Forms of Social Organization" and furnishes the framework within which the standards subsequently discussed are set.

Three forms of social organization or stages of social development are recognized: (1) the community based on kinship, (2) despotism which rests on authority and (3) the state which rests on consent and the recognition of a common humanity. The standards are then considered as the standards respectively of communities, of despotisms and of states. As a result the author finds that the development of standards has generally followed the development of social organization. For this general conclusion, that society and standards show a corresponding evolution, he has undoubtedly made out a good case. The reader feels, however, that the author's study of comparative ethics leaves much untouched which has important bearings on the general problem of the evolution of morality. There is, for instance, no adequate discussion of the virtues. Consideration of individual excellence is swamped by the emphasis on social institutions. Surely comparative ethics should exhibit the types not only of moral institutions but also of moral individuals. And it would be bold indeed to assert that such types do not exist even in primitive societies or that they do not give to the moral picture of communities decided lights and shades. How otherwise—to use an instance which the author cites—can we adequately represent to ourselves the moral status of the Dyaks who are courteous, hospitable and full of brotherly kindness, and yet inveterate head-hunters and murderers? Indeed Mr. Hobhouse recognizes that to judge them fairly both their virtues and vices must be considered in connection with their life as a whole. But how can judgments of this sort be adequately made if social institutions are so exclusively taken as the indexes of vice and virtue and if the selection of standards is made with the view of discovering whether there is a correspondence between types of standards and types of society? To be sure the individual is an illusive factor, especially when we have to deal with historical records and observations of primitive peoples, but it is still an effective factor and one, in our opinion, too little regarded by Mr. Hobhouse.

In general, it appears to us that the value of this first volume is much impaired by the fact that the author undertakes to discover an evolution in morals by comparing institutions in different social levels without any adequate discussion of the factors of the evolution involved. He expressly makes this limitation in his preface, so our criticism touches his deliberate intention rather than his specific results. "Little will be said here," he states, "of the psychological forces

which underlie the ethical consciousness ; little of the sociological and other factors which accelerate or retard the development. These lie for the most part outside our immediate province. It is the essential facts of development itself that we are seeking to ascertain." But how can the essential facts of development be ascertained if the forces which underlie the ethical consciousness are disregarded? Mr. Hobhouse likens, as we have seen, the comparative study of ethics to the physical morphology of animals and plants. But just as this morphology is inadequate for tracing development without its correlative physiology, so the morphology of ethics is inadequate without its correlative psychology and sociology.

In considering the evolution of bases, Mr. Hobhouse follows the development of men's reasonings about the foundations of morality from the early phases of thought down to modern times. He finds that the development of ethical conceptions has been largely bound up with the development of thought in general, of ideas as to the nature and origin of things and the destiny of man. As a consequence the movement proceeds from the customary rules of primitive society, which have not acquired the distinctive character of moral laws, through the recognition of moral obligation resting on the authority of religious conceptions, until, finally, with philosophical criticism, the principle is reached that every rule of conduct must be based on the demonstrable needs of human life. The development is thus one of growing rationalization. There is noted also a certain correspondence between the phases of this development and the stages of social organization.

The author's extensive and suggestive survey includes not only the moral opinions of the western world—as has been too frequently the case in our histories of ethics—but also the ethics of the Vedic religion, of Brahmanism and Judaism, of Confucius and Mencius. Nowhere is his treatment of the theme more admirable and suggestive than in his discussion of modern ethics. Its similarity to Greek ethics is recognized, but its contrast is notably enforced by a consideration of the religious, social, scientific and economic forces of modern life. In particular the author has shown how modern conceptions of nature and of the grounds of knowledge and modern humanitarianism have affected ethical theory. This humanitarianism

has justified individuals, classes, creeds, nationalities, that have stood resolutely by their rights and fought for their liberties. It has fostered the newer education of the faculties and ridiculed the sentimentalism which regarded all independent initiative in one half of the race as a kind of

indecent. In short it has conceived the permanent elevation of both sexes and all classes to a life in which they could enjoy that free and full cultivation of their powers which the best of the older civilizations only imagined to be possible for a narrow class.

Yet he sounds a warning against the view that any "rational" system of ethics can claim finality.

We stand on the edge of illimitable, unexplored regions, into which our vision penetrates but a little way. But at least we can dismiss as foolish the fear that science will exhaust the interest of reality, or peace destroy the excitement of life, or the reign of reason cramp the imagination. The conquests of mind have a very different effect. The more territory it brings under its sway, the vaster the unconquered world looms beyond.

And now the final question: Does the comparative study of the development of ethical standards and of ethical theories reveal a genuine evolution of morality? Or, in the author's own words, "How far does this development of conceptions correspond to an actual improvement in social relations, or in the character of human beings?" The answer is as follows:

As to the first question we may say that in the social evolution from the community based on kinship to that which rests on authority, and from this again to the State which rests on consent, there is a very rough and irregular correspondence with the ethical and religious evolution here worked out. . . . On the other hand, we have been compelled to admit that social and ethical development do not always advance together. Social changes are in large measure unconscious, uncontrolled by any intelligent direction, and the more completely so the further we go back into the beginnings of history. Hence they do not run precisely parallel with the growth of mind, but at times impede, at other times again forward it. But as the higher phases are reached the two processes fuse into one.

Ethical progress becomes thus "essentially a progress in ethical conceptions, acting through tradition." Yet the fact that tradition, although slowly, haltingly and, at times, with sad relapses, follows the line of the development of ethical conceptions leads the author to conclude that "the further development of society . . . is destined to fall within the scope of an organizing intelligence, and thereby to be removed from the play of blind forces to the sphere of rational order. . . . This slowly wrought out dominance of mind in things is the central fact of evolution."

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## RECORD OF POLITICAL EVENTS

[From May 1, 1908, to November 3, 1908]

### I. INTERNATIONAL RELATIONS

**THE BALKAN SITUATION.**—To the continued disorders in Macedonia (see last RECORD, p. 354) was added in May an insurrection of the inhabitants of Vathy, the capital of **Samoa**, against the Turkish governor. Three battalions were required to restore order, and the Porte, acting on the suggestion of France and Great Britain, formally guaranteed in June the continuance of local self-government in the island.—The Anglo-Russian reform scheme for **Macedonia**, which was published in July with the assent of all the powers except Germany and Austria-Hungary, provided for the immediate organization of flying columns to suppress the rival nationalistic bands, the appointment by the powers of a governor-general for a term of seven years with extensive rights, including the selection of subordinates, and the application of Macedonian taxes to local needs. The triumph at Constantinople, in July, of the Young Turks and the reforms announced by the new ministry (see *infra*, pp. 774, 775) brought temporary quiet to Macedonia, and early in August the Anglo-Russian proposals were withdrawn.—Towards the end of August, the northern Albanians threatened the new régime with difficulties, and an opposition of Macedonian Bulgarians to a centralized system of government became evident. With the latter, **Bulgaria** naturally sympathized, and several incidents in September served to increase friction between Prince Ferdinand's government and the Porte. On the ground that the Bulgarian minister at Constantinople was only the agent of a tributary state, he was not invited to the dinner of the diplomatic corps on the anniversary of the sultan's accession, and he was recalled by his government. Simultaneously the continued occupation of the Oriental Railway Company's lines by Bulgarian troops, who had taken possession of them during a strike, called forth protests from Turkey.—To this already menacing situation, Austria-Hungary early in October added another complication. On October 3, Emperor Francis Joseph, in an autograph letter to the French president, first publicly announced his intention of incorporating **Bosnia and Herzegovina** into his dominions and of evacuating the Turkish sanjak of Novi Bazar; and on the seventh he issued a rescript to the peoples of the principalities guaranteeing a modified form of autonomous government. Meanwhile, on the fifth at Tirnovo, the ancient capital of Bulgaria, Prince Ferdinand with his ministry proclaimed the principalities of Bulgaria and Eastern Roumelia an independent united kingdom and assumed the title of "Tsar of the Bulgarians." Almost simultaneously, the public authorities in **Crete** decreed the union of that island with Greece.

The Ottoman government promptly protested to the powers against these violations of the treaty of Berlin and subsequent international agreements. —The action taken at Vienna aroused great excitement among the **Servians** and **Montenegrins**, who feared to be hemmed in by Austrian territory, and war along the Danube seemed for a time imminent. The Servian Skupshtina, convened in extraordinary session on October 10, called out 120,000 reservists, but it was stated that a shortage of ammunition prevented the immediate opening of hostilities. The detention by Austrian officials of General Vukotics, a special Montenegrin envoy to Serbia, at Agram on October 20 created further ill-feeling, but the Austro-Hungarian government offered an apology, and it was reported on November 1 that calmer councils prevailed both in Serbia and Montenegro. —The protest of the Ottoman government to the powers was answered by a Russian proposal for a **conference** of the signatories of the treaty of Berlin. This proposal was approved by France, Great Britain, Italy and Turkey, and subsequently it received the conditional approval of Germany, which had recognized the Austrian occupation of Bosnia and Herzegovina. The French and British press insisted that the Balkan entanglement had been plotted by Germany in order to sow discord among the parties to the recent *ententes*, Great Britain, France and Russia; but this was indignantly denied by Emperor William. It was reported that the program of Russia, France and Great Britain for the international conference would include the recognition of accomplished facts to date, the payment of indemnities by Bulgaria and Crete to Turkey, the purchase of the Oriental Railway by Bulgaria, the occupation and administration of the sanjak of Novi Bazar by Turkey, the renunciation by Austria of protection over Montenegro and the rectification of the Montenegrin and Servian frontiers. Direct negotiations on these matters between Bulgaria and the Porte and between Austria-Hungary and the Porte were opened on October 19 but without apparent results, the Turks preferring to leave the whole matter to the international conference. —Throughout this period of national revolution and international complication comparatively slight headway was made in the negotiations for the **Macedonian railways**. A draft scheme was signed at Paris in June for the construction of the Danube-Adriatic line under French supervision with capital apportioned as follows: French, 45 per cent.; Italian, 35; Russian, 15; and Servian, 5. The section of the Greek railway from the Piræus to the Turkish frontier was opened on September 6, but final arrangements for its continuation as well as for the construction of the Austrian line through Novi Bazar had not been effected at the close of this RECORD.

**GENERAL EUROPEAN RELATIONS.**—The **Dual Alliance** and the understanding between its members and **Great Britain** were strengthened in the summer by the holding of the Franco-British Industrial Exhibition at London, by an exchange of visits between King Edward and President Fallières and by visits of each of these heads of state to Nicholas II.—Both the French president and the emperor of Germany paid visits to the Scandi-

navian countries.—The Balkan complications (see *supra*) and the Moroccan situation (see *infra*) tended to increase irritation between Great Britain and Germany, and Emperor William publicly hinted, despite denials from Paris and London, that his rivals were intent on isolating Germany. Late in October the London *Telegraph* published an interview accorded some time previously by Emperor William to an Englishman, in which the emperor asserted his steadfast friendship for Great Britain, as evidenced during the Boer War in the face of French and Russian hostility, and indicated that Great Britain and Germany had common interests in Morocco. This "calculated indiscretion" was generally condemned by the European press, and in Germany it elicited severe criticism of the Foreign Office.—The Porte in July transferred the protection of Ottoman subjects in China from France to Germany, and it was reported that the latter was negotiating for the protection of Turks in Siam and Abyssinia.—A customs agreement was ratified in August between Serbia and Austria-Hungary after three years' negotiation.—The delimitation of the sea boundary between Sweden and Norway was submitted to arbitration in June.

**AFRICAN AND ASIATIC RELATIONS.**—There has been an improvement in the Moroccan situation (see last RECORD, pp. 354-356). The army of Abd-el-Aziz, while proceeding in May from Rabat towards Fez, was hemmed in by hostile tribes in the Beni Hassan country, and half its number deserted to Mulai Hafid while the remainder retreated to Rabat. Mulai Hafid occupied Fez on June 7 and on the 18th was proclaimed sultan at Tetuan. At Alcazar the troops of his rival mutinied and pronounced in his favor. Abd-el-Aziz undertook another forward movement in August, but he was utterly defeated near Marakesh by his brother's troops and by the treachery of his own men and fled to Settat. He later sought French protection at Casablanca. Mulai Hafid was proclaimed sultan at Tangier on August 23 and at once declared that he would abide by the act of Algeciras and would accept responsibility for his predecessor's public debts, amounting to some thirty million dollars. Germany proposed his immediate recognition by the powers, but the French and Spanish governments, supported by that of Great Britain, objected to such a proceeding without a sworn guarantee on his part to abide by the act of Algeciras and to reimburse their countries for military outlays as well as to pay indemnity for the murder of Frenchmen and Spaniards. The French troops were still fighting the tribesmen, with general success, in the region of Casablanca and along the Algerian frontier. Mulai Hafid issued a formal request to the powers for recognition on September 12, and on October 19 France and Spain recommended his provisional recognition on condition of his guaranteeing all the provisions of the act of Algeciras. Four thousand French troops left Casablanca in September and three thousand more at the end of October.—A sharp clash occurred at Casablanca late in September between French officials and representatives of the German consulate, resulting from an attempt on the part of the former to arrest a number of

German deserters from the French foreign legion. It was proposed to express mutual regrets and to refer the matter to The Hague tribunal.—A convention was signed by Emperor Menelek and the Italian representative at Addis Abeba on May 16 defining the boundaries of **Italian Somaliland** and **Abyssinia**, by which Italy paid \$600,000 and was guaranteed the possession not only of Lugh but also of the important caravan centre at the juncture of the rivers Dau and Ganana.—**Japan** withdrew in June all opposition to the construction by **China** of the Manchurian railway west of the Liao river (see last RECORD, p. 356). The Japanese government announced in October the reduction of its forces in northern China by two-thirds.—**French** claims arising from acts of **Chinese** revolutionaries who crossed into Tonquin in June were adjusted in October by an agreement that China should pay an indemnity of \$100,000 together with the assessed damage to the French railway and should allow the extension of that railway to Sian-fu-but.—The **Persian** government apologized to **Russia** early in June and paid an indemnity for the Russian victims of tribal attacks in the province of Azerbaijan.

**FOREIGN RELATIONS OF THE UNITED STATES.**—During the past session of Congress, the Senate ratified arbitration treaties with Denmark, France, Great Britain, Italy, Japan, Mexico, Netherlands, Norway, Portugal, Spain, Sweden and Switzerland; also eleven Hague conventions relating to rights of neutrals, laws of war on land, hospital ships, naval bombardments and rights of the captured in naval warfare, restricting the employment of submarine mines, prohibiting the discharge of projectiles and explosives from balloons, providing for the pacific settlement of international controversies, limiting the employment of force for the collection of contractual debts, regulating the opening of hostilities and adapting the provisions of the Geneva convention to maritime warfare. (See RECORD of December, 1907, p. 748.)—No general settlement of the questions that have arisen between **Japan** and the United States as a result of the race conflicts in San Francisco (see last RECORD, p. 351) has yet been reached; but in July the emperor of Japan ratified the general arbitration treaty between the two countries, and on August 6 formal ratifications of a new copyright and trademark treaty were exchanged. It was reported on July 14 that, notwithstanding the precautions taken by Japan, a large number of Japanese laborers were entering the United States.—On October 8 an arbitration treaty was signed at Washington by Wu Ting-Fang, on behalf of **China**, and by Secretary Root on behalf of the United States.—In August the Foreign Office of **Great Britain** announced that a satisfactory *modus vivendi* regarding the Newfoundland fisheries for the season of 1908 had been reached by the exchange of notes, thus establishing another temporary agreement subject to the decision of the case by the Hague tribunal (see POLITICAL RECORD, December, 1907, p. 752).—On October 1 an agreement between Great Britain and the United States went into effect establishing a postal rate of two cents an ounce for letters.—A new postal convention was concluded with **Italy** on June 16 containing special arrangements



for the transmission of parcels.—During the summer important conferences were held in **France** between French and United States commissioners appointed to make the preliminary adjustments for a new reciprocity treaty between the two countries.—In June the government of **Mexico** announced its belief that the disorders in progress along the northern borders were due largely to agitators who had fixed their headquarters within the territory of the United States, and Secretary Taft ordered United States troops to the Mexican borders with instructions to prevent the violation of neutrality laws. Ratifications of a general arbitration treaty between the United States and Mexico were exchanged on June 27.—Notwithstanding grave fears on the part of the administration at Washington, the provincial and municipal elections in **Cuba** on August 1 were conducted in an orderly fashion, and President Roosevelt in a message to Governor Magoon expressed his satisfaction at the serious way in which "the Cuban people are preparing for the assumption of their full duties as an independent republic." In these local elections the Conservatives showed unexpected strength. The presidential and congressional elections are set for November 14. The inauguration of the new president is fixed for January 28, just before the proposed withdrawal of United States control. (See last RECORD, p. 352.)—Owing to rumors that the coming presidential election in **Panama** would be accompanied by outbreaks, Secretary Taft visited the isthmus early in May, and in addition to investigating the political situation, he held important conferences with Panamanian authorities with regard to the pending treaty arrangements between the United States, Panama and Colombia. Later United States troops were dispatched to guard the polls at crucial points, but the municipal elections of June and the presidential election in July passed off without serious disturbances. United States commissioners aided in obtaining a fair count at the July election. (See last RECORD, p. 352.)—As a result of a conference between Acting Secretary Bacon and several representatives of the **Central American Republics**, emphatic notice was issued to the governments of the latter states that strict neutrality must be observed under pain of discipline from the United States and probably from Mexico.—The friction which has long existed between the United States and **Venezuela** (see last RECORD, p. 352) resulted in the withdrawal of United States diplomatic representation in June and the placing of American interests in the hands of the Brazilian legation. On July 1 the Court of Cassation confirmed the decision of the lower courts imposing a fine of \$5,000,000 on the New York and Bermudez Asphalt Company. No appeal from this judgment is possible. About a week later President Castro ordered the withdrawal of the Venezuelan *chargé d'affaires* and the closure of the legation at Washington. Consular relations, however, were maintained and the course of trade was not interrupted.

**OTHER AMERICAN RELATIONS.**—The **Central American High Court** was opened on May 26 at Cartago in Costa Rica. Honduras and

Nicaragua instituted suits before it in July against Salvador and Guatemala, charging them with promoting a revolution in Honduras and aiding Nicaraguan refugees.—A convention was ratified in May for the delimitation of the boundary between **Brasil** and the Dutch colony of **Surinam**.—Treaties of amity and commerce were signed in September between **Chile** and **Bouador**, providing for preferential duties and for a steamship service between the two countries.—A boundary treaty between **Colombia** and **Ecuador** was promulgated on August 14.—A treaty of friendship and commerce between **Mexico** and **Honduras** was signed on May 28.—Boundary disputes between **Paraguay** and **Bolivia** and between **Peru** and **Bolivia** were submitted in July to the arbitration of the president of the Argentine Republic.—The minister of the **Netherlands** to **Venezuela**, M. de Reus, reported to his government early in May an outbreak of cholera at La Guayra, and the Dutch colony of Curaçao immediately established a quarantine. This angered President Castro, who denied the existence of cholera and on the 14th issued a decree prohibiting the transshipment at Curaçao of goods destined for Venezuelan ports, coupling with it emphatic protests against Dutch smuggling and filibustering. A Venezuelan coast-guard vessel seized two Dutch sloops on the high seas off Arubia in June, detained them two days at La Vela de Coro and took all letters on board which were not in mail bags. M. de Reus attacked this action and was expelled from the country by President Castro on July 22. Thereupon the Venezuelan consul was driven from Willemstad, the capital of Curaçao, after a demonstration by an angry mob, and diplomatic relations were broken off between the countries. The government of Queen Wilhelmina obtained the assurance that the American government would not oppose the use of force if no land were occupied. Three Dutch warships were despatched to Venezuela, and the Netherlands government delivered an ultimatum on August 20 demanding the revocation of the decree of May 14 and the observance of the protocol of 1894, to which President Castro returned a peremptory refusal on September 12, and on October 20 he directed the immediate defence of La Guayra in anticipation of a naval demonstration which the Dutch threatened for November 1.

**INTERNATIONAL CONFERENCES.**—At the request of the German and Italian governments, Queen Wilhelmina of the Netherlands in September invited all the states represented at the Second Hague Conference to take part next year in an international conference on the subject of bills of exchange and general monetary regulation.—The following congresses were held during the summer months: In June, the Pan-Anglican Congress at London and the International Woman's Suffrage Congress, representing twenty-three nations, at Amsterdam; in August, the Congress of the International Patent Union at Stockholm, and the Baptist Congress at Berlin; and in September, the Eucharistic Congress of the Catholic Church at London and the Interparliamentary Union at Berlin.

## II. THE UNITED STATES

**THE ADMINISTRATION.**—The receipts for the fiscal year ending June 30 were \$599,895,763; the expenditures were \$659,552,124, leaving a deficit of \$59,656,361 as against a surplus of \$84,236,686 last year. —On the call of President Roosevelt a conference of governors opened at Washington on May 13, to consider the conservation of the natural resources of the country. In addition to the governors, Mr. Bryan, Mr. Carnegie, Mr. James J. Hill and other distinguished guests were present. The conclusions of the assembly were formulated in a declaration that the president be commended for his action in calling the conference, that future meetings of the same kind be called to develop the spirit of coöperation, that a commission be appointed by each state to work together with a federal commission, that the present condition of our natural resources be investigated, that wise forest policies be adopted and developed, that Congress adopt a thoroughgoing waterway policy, and that laws be enacted to prevent waste in the extraction and utilization of natural resources. In accordance with the suggestion of the governors' conference President Roosevelt on June 6 appointed a national commission to advise with him on the conservation of our resources and to coöperate with commissions named by the state. The national commission is divided into committees on waters, forests, lands and minerals and an executive committee. Congress having failed to provide for the further existence of the *Inland Waterways Commission*, the president continued it by executive act, reappointing the former members. —With a view of making recommendations to Congress on the subject of improving the social, sanitary and economic conditions of farm life, President Roosevelt, in August, appointed an investigating committee headed by Professor L. H. Bailey. —In a formal opinion announced on August 1, Attorney-General Bonaparte passed on the new Oklahoma law guaranteeing bank deposits, holding that it was illegal for the national banks to enter into contracts or arrangements with state officials for the purpose of contributing to a guarantee fund to supply the deficiencies of other banking concerns. On the basis of this opinion, the comptroller of the currency ordered national banks in Oklahoma not to accept the conditions of the law. —The commission appointed by President Roosevelt last spring to investigate the conditions prevailing on the *Panama canal* made a formal report on August 6, stating that 33,193 men were employed, that more than two million cubic yards were being removed per month, that the sanitary conditions were satisfactory and that the administration of Colonel Goethals was to be commended. —The *Atlantio fleet* (see last RECORD, p. 358) reached Auckland in August, where it was received with enthusiasm. Later, in Melbourne, the authorities of the municipality, state and commonwealth joined in celebrating its arrival. On the longstanding invitation of Japan the fleet visited that country in October and met a cordial welcome on the part of the authorities and the people. The latter part of October one squadron went to Amoy, China, and the other to Manila. —Luke E.

Wright succeeded Mr. Taft as secretary of war on July 1.—The trial of four persons charged with **land frauds** (see last RECORD, p. 358) ended in the latter part of June in the conviction of Frederick A. Hyde and J. H. Schneider. It was announced by the prosecution that more than 100,000 acres of land had been restored to the government as a result of the proceedings.—A special grand jury for the United States district court in Oregon returned seven indictments in June against prominent politicians and ranchmen, charging them with fraudulent schemes involving 30,000 acres in the Umatilla reservation.

**THE DEPENDENCIES.**—On June 30 the Bureau of Insular Affairs announced that W. Cameron Forbes, of Massachusetts, a member of the Philippine Commission, had been appointed vice-governor of the **Philippine Islands**, and that Gregorio Araneta, of Manila, Newton Gilbert of Indiana and Rafael Palma of the Philippine Islands had been appointed members of the Philippine Commission. Araneta received at the same time the secretaryship of finance and justice. On the eve of adjournment, July 19, the Philippine Assembly (see last RECORD, p. 359) declared by a vote of 57 to 5 that independence was the hope of the Filipinos, and that they were ready for it.—The Fourth of July was celebrated in Manila by a monster mass meeting, which adopted a petition requesting the American Congress to give to the Philippine Islands trade advantages equal to those enjoyed by Porto Rico.—The former charges against Mr. Post, governor of **Porto Rico**, were revived in October by an article in the *Porto Rico Eagle*, charging the governor with attacking the educational system, the American missionaries and the miraculous birth of Christ. The charge was met with a prompt denial; and the administration, having previously investigated the case, refused to re-open it. A special session of the legislature passed an irrigation act, designed to carry out a plan initiated by Governor Post.

**CONGRESS.**—The closing days of the first session of the Sixtieth Congress were principally consumed in heated and sometimes sensational debates on the **Currency Bill**, which ended with the passage of a compromise measure. On May 6 a conference of the Republican members of the House approved the general principles of the Vreeland measure (see last RECORD, pp. 359, 360) and, in spite of the opposition of the Democrats and several "insurgent" Republicans, this measure passed the House. In the Senate the Vreeland bill was rejected and a modified form of the Aldrich bill was substituted. After a hard fight in the conference committee, a compromise measure known as the Vreeland-Aldrich currency bill was reported on May 27 and was driven through the House on the same day, under the efficient direction of Speaker Cannon, by a vote of 166 to 140, thirteen Republicans voting with the Democrats against the measure. The Senate was notified of the action of the House at five o'clock in the afternoon and, after the reading of the bill, debate was postponed until the following day. The opposition was directed by Senators LaFollette, Stone and Gore. The first of these made, on the 29th and 30th, a record-breaking speech, lasting

in all about eighteen hours and a half. Mr. Stone then spoke for about seven hours, and Mr. Gore, the blind senator, for two hours. When the latter finished his speech, he was unable to discover that Mr. Stone, who was scheduled to take up the discussion, was absent, and Mr. Aldrich seized the opportunity to call for a vote. This resulted in the passage of the bill by a majority of 43 to 22, five Republicans voting with the Democratic minority. The bill, as passed, provides for the formation of incorporated National Currency Associations of not less than ten banks each. A bank in such an association, having an outstanding bond-secured circulation amounting to not less than 40 per cent of its capital and having a surplus of 20 per cent, may, through the association, deposit as a basis for an emergency issue "any securities including commercial paper held by a national bank." The amount thus issued is not to exceed 75 per cent of the cash value of the securities so deposited; but if bonds of states, counties, cities or towns are deposited, the issue may be 90 per cent of their market value. Any national bank qualified as above may issue bank-notes on such bonds by applying directly to the comptroller. The tax is five per cent a year for the first month and one per cent a year for each succeeding month up to ten per cent. Arrangements are made for redemption and for geographical apportionment of issues. A commission of nine senators and nine representatives is created to inquire and report "what changes are necessary or desirable in the monetary system of the United States or in the laws relating to banking and currency."—The House committee charged with investigating the paper trust (see last RECORD, p. 360) having heard testimony, submitted in the latter part of May a "preliminary and partial report" against the adoption of the proposed measure removing the duties from wood-pulp and printing paper, and was instructed to continue its investigations during the summer.—The charges of corrupt lobbying brought by Representative Lilley (see last RECORD, p. 360) were investigated by a committee. It reported that the charges were baseless and severely reprimanded Mr. Lilley, accusing him of bad faith.—On motion of Mr. Payne the House Committee on Ways and Means was authorized to sit during the recess and hold hearings preparatory to a revision of the tariff. The Senate adopted a resolution authorizing its Finance Committee to secure expert assistance in making tariff investigations. These expedients made unnecessary the establishment of the proposed tariff commission (see last RECORD, p. 360).—The appropriations by Congress for the year totalled \$1,008,804,894.57.—The Monetary Commission established by the Currency Bill was constituted by the appointment of Senators Aldrich, Allison, Burrows, Hale, Knox, Daniel, Teller, Money and Bailey, and Representatives Vreeland, Overstreet, Burton of Ohio, Weeks, Bonyng, Smith of California, Padgett, Burgess and Pujo. A sub-committee of the commission spent a part of the summer and autumn in Europe investigating the banking and currency systems of the leading countries.—A measure providing for the publicity of campaign

contributions, to which was attached an amendment relating to the reduction of congressional representation in the states where negroes are disfranchised, passed the House on May 22 against a solid Democratic vote, but it was not taken up by the Senate.—Bills were passed providing for the payment of compensation to government employees injured in the performance of duty and for the better protection of railroad engineers and firemen, and a model child-labor law was enacted for the District of Columbia. Congress also ordered an investigation into the conditions of employees in telegraph and telephone companies doing interstate business and appropriated \$150,000 for an inquiry into mine accidents.—Congress adjourned May 30.

**THE FEDERAL JUDICIARY.**—According to the decision of the Supreme Court in the case of *Reuben Quick Bear v. Leupp*, a declaration by Congress that the government shall not make appropriations for sectarian schools does not apply to Indian treaty and trust funds, nor are such appropriations of these funds in conflict with the federal constitution.—In *Cleveland, Cincinnati, Chicago and St. Louis Railway Company v. Porter*, the court upheld the Barrett law of Indiana, creating special taxing districts for local improvements and permitting, for purposes of taxation, the classification of properties into those immediately abutting and those lying a certain distance away.—In *Mobile, Jackson and Kansas City Railway Company v. Mississippi* it was held that a decree of a state court, requiring a railway company doing an interstate business to construct its lines within the state according to the terms of its charter and the orders of the state railway commission, is not an interference with interstate commerce.—In *St. Louis v. United Railways Company* it was held that the imposition of a license tax on a street railway company which had agreed to pay for the use of the streets was not an impairment of the obligation of contract, no exemption being granted in unequivocal terms in the original agreement.—In *St. Louis, Iron Mountain and Southern Railway v. Taylor* it was decided that the authority conferred by the Safety Appliance Act of 1893 upon the Interstate Commerce Commission and the American Railway Association to promulgate certain standards for freight cars was not an unconstitutional delegation of legislative power.—According to *Londoner v. Denver*, due process in taxation includes notice to the tax payer and an opportunity for a hearing, and this requirement is not satisfied by giving him a right to file objections. (See also **THE TRUST PROBLEM AND THE RAILWAYS**, *infra*.)

**THE NATIONAL POLITICAL CONVENTIONS.**—The fourteenth national convention of the Republican party opened in Chicago June 16. Senator Burrows of Michigan, as temporary chairman, delivered the first address, in which the most significant utterance was a firm defence of the federal judiciary. The thorniest question which the platform committee had to handle was that relating to the use of injunctions in labor disputes. In this matter there were two contending elements which the convention could not ignore, namely, the American Federation of Labor and the

National Manufacturers' Association. On June 18 seven candidates were placed in nomination, and on the first ballot the following vote was cast: Taft, 702; Knox, 68; Hughes, 67; Fairbanks, 40; Cannon, 58; Foraker, 16; La Follette, 25. Mr. Roosevelt, received three votes from Pennsylvania, although he had not been placed in nomination. On motion of General Woodford of New York, the nomination of Mr. Taft was made unanimous. The following day the ballot was taken for the vice-presidential nomination with the following results: James S. Sherman of New York, 816; Franklin Murphy of New Jersey, 77; Curtis Guild of Massachusetts, 75; G. L. Sheldon of Nebraska, 10; C. W. Fairbanks of Indiana, 1. —The **Democratic** national convention was called to order at noon on July 7 in Denver. The temporary chairmanship was assigned to Theodore Bell of California, who struck a popular chord in the assembly when he asserted that the injunction should not be turned into "an instrument of tyranny." There was some tension for a moment when a resolution regarding the late Mr. Cleveland was proposed, but it was carried without opposition. It was clear from the beginning that Mr. Bryan had the support of an overwhelming majority of the delegates; and on the second day the mention of his name started a pandemonium which lasted for one hour, twenty-five minutes and twenty seconds. Owing to the delay of the platform committee in bringing in its report, the nominating speeches were made first; and the names of Mr. Bryan, Governor Johnson of Minnesota and Judge Gray of Delaware were placed before the convention. The platform was then adopted without opposition, and at about three o'clock on the morning of July 10 a first ballot was taken, giving Bryan 892½, Johnson 46 and Gray 59½ votes. The nomination of Mr. Bryan was then made unanimous. In a quiet afternoon session John W. Kern of Indiana was nominated for the vice-presidency.—The **Socialist** convention was held in Chicago, May 13-15, and Eugene V. Debs of Indiana and Benjamin Hanford of New York were named as candidates for the presidency and vice-presidency.—The **Prohibition** convention held at Columbus, Ohio, on July 15-16, nominated Eugene W. Chafin of Illinois for the presidency and A. S. Watkins of Ohio for the vice-presidency.—The **Independence** party held its convention at Chicago, July 27 and 28. It nominated Thomas Hisgen of Massachusetts for the presidency and John Temple Graves of Georgia for the vice-presidency.—The **Socialist Labor** party, in its convention held in New York City early in July, nominated for the presidency Martin R. Preston of Nevada, who is serving a term of twenty-five years in the state penitentiary for a murder committed in a labor dispute at Goldfield. Donald Munro of Virginia was selected for the vice-presidency. In view of Preston's incarceration, August Gilhaus of New York ran as his proxy.—The **Populist** convention had been held in April (see last RECORD, p. 360).

**THE PLATFORMS.**—The Democratic and Republican platforms were in accord on a number of points, such as the admission of Arizona and New

Mexico as separate states, liberal pensions, the encouragement of the national marine (for which purpose, however, the Democrats would not impose "new or additional burdens on the people" or give "government bounties"), the creation of national public-health agencies, the conservation of natural resources and the establishment of postal savings banks (which the Democrats favored if a guarantee of bank-deposits could not be secured). Both parties agreed that the tariff should receive an early revision, but the Democrats were more specific, favoring the removal of duties on trust-controlled products and the restoration of the tariff to a revenue basis. On the subject of railway regulation, the Republicans advocated such an amendment of the law as would give the railroads the right to make and publish traffic agreements subject to the approval of the Interstate Commerce Commission, provided the principle of competition were maintained, and they called for national legislation to prevent stock-watering. The Democratic platform was more explicit, demanding physical valuation of railway property, that railways should be prevented from entering into competition with their shippers, and that the Commerce Commission should be empowered to take the initiative in rate regulation, to inspect proposed schedules and to re-adjust unreasonable rates. The anti-trust plank of the Republican party proposed to give the federal government more extensive supervision and control over interstate corporations having power and opportunity to establish monopolies; the Democratic platform demanded the destruction of all private monopoly and recommended, as specific measures, laws preventing duplication of directors among competing corporations, establishing a federal license system and compelling licensed companies to sell their commodities at the same price throughout the country, subject to variations owing to cost of transportation. On the vexed question of injunctions, the Democrats reiterated their pledges of 1896 and 1904, providing for jury trial in cases of indirect contempt, and stated that "injunctions should not be issued in any cases in which injunctions would not issue if no labor dispute were involved." The Republicans, while insisting on preserving the integrity of the judiciary, declared that "the rules of procedure in the federal courts with respect to the issue of the writ of injunction should be more accurately defined by statute, and that no injunction or temporary restraining order should be issued without notice, except where irreparable injury would result from delay, in which case a speedy hearing thereafter should be granted." The Democrats condemned imperialism as a blunder and favored an immediate declaration of the nation's purpose to give the Philippines independence as soon as stable government could be established, subject to arrangements similar to those with Cuba. According to the Republicans, "the policies of McKinley and Roosevelt are leading the inhabitants step by step to an ever-increasing measure of home rule." As regarded labor questions, the Republicans pointed to their record (see *supra*, p. 755); the Democrats promised to create a department of labor and to free unions



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from the restrictions on combinations in restraint of trade (see last RECORD, pp. 360, 361). The Democratic platform, in addition, called for **popular election of senators**, an income tax, regulation of telegraph and telephone rates for interstate business, publicity of campaign funds, and legislation requiring the creation of a **national bank guarantee fund**, securing depositors in any insolvent national bank.—The platform of the Independence party favored anti-injunction legislation, the exemption of labor unions from the operation of the anti-trust laws, government ownership of public utilities and other radical innovations.—In his **speech of acceptance**, delivered on July 28, Mr. Taft declared that the chief function of the next administration would be to ensure the permanence of the reforms introduced by President Roosevelt. He approved the physical valuation of railway property, seemed to favor the exemption of labor combinations from the terms of the anti-trust law, dwelt at length on the injunction question and endorsed the popular election of senators, declaring at the same time that this was hardly a party question. Mr. Bryan, in his speech of acceptance, delivered August 12, adhered very closely to the terms of the platform and declared that the keynote of the campaign should be: "Shall the people rule?"

**THE CAMPAIGN AND THE ELECTIONS.**—Frank H. Hitchcock of Ohio was chosen by the Republicans as national chairman and George R. Sheldon of New York as treasurer. Norman E. Mack of New York was selected as chairman of the Democratic committee. Governor Charles N. Haskell of Oklahoma held the office of treasurer until supplanted by Mr. Herman Ridder of New York.—A significant feature of the campaign was the action of Samuel Gompers, president of the **American Federation of Labor**, in declaring himself personally in favor of Mr. Bryan and calling on organized workingmen everywhere to vote the Democratic ticket. The most sensational incident of the campaign was William Randolph Hearst's publication of a number of letters, purloined from the files of Mr. John D. Archbold, indicating that several prominent men of both parties had maintained relations with the **Standard Oil Company** and had used their political influence on behalf of that corporation. The first group of letters given to the public on September 17 and 18 involved Senator Foraker of Ohio and showed that he had been in receipt of large sums of money from Mr. Archbold. Mr. Hearst urged that Senator Foraker was merely a tool of the Standard Oil Company; Senator Foraker denied that there had been any irregular relations, but he withdrew from active participation in the campaign. At the same time Mr. Hearst attacked Mr. Haskell, treasurer of the Democratic national committee, charged him with being "the political paymaster of the Standard Oil Company," and stated that he had attempted to bribe Francis Monnett, attorney-general of Ohio, in an action against that company. Mr. Haskell denied all these charges. President Roosevelt joined in Mr. Hearst's denunciation of the Democratic treasurer; Mr. Bryan, for a time, stoutly defended him; but at length the pressure became too strong and, on

September 25, Mr. Haskell resigned the office of party treasurer. Other congressmen and senators of less prominence were attacked by Mr. Hearst on the basis of letters of which the authenticity was not disputed. At a meeting in Carnegie Hall on the evening of October 24, Mr. Hearst read letters from Mr. Archbold to W. A. Stone, written when the latter was governor of Pennsylvania, asking him to appoint certain men to judicial offices, and also letters to Attorney-General Elkins of the same state enclosing certificates of deposit and requesting the officer to assist in blocking certain legislation.—Another feature of the campaign was the demand for the publicity of contributions to the party funds. Early in July Mr. Taft promised that the contributions to the Republican fund should be made public after the election in accordance with the New York law. This was speedily followed by an announcement, on behalf of the Democratic committee, that a list of all contributions over \$100 and the names of the contributors would be published on October 15; and on that date Treasurer Ridder printed his statement, showing an aggregate of \$248,567 contributed up to the 9th of that month.—The candidates of the two leading parties made extensive campaign tours, speaking in all the doubtful states and at the points deemed to be of chief strategic importance.—The elections occurred on November 3. At the close of this record it appears that Mr. Taft has 321 electoral votes and Mr. Bryan 162, the vote of Maryland being divided. Of the states which went Republican in 1904, Mr. Bryan carried Nebraska, Colorado and Nevada. Missouri and West Virginia gave the Republican candidate safe pluralities. New York state gave him a plurality of 203,000; he carried even New York city, losing New York county by a plurality of less than 6000. At the present time Mr. Taft's plurality is estimated at about 1,118,000, as against Mr. Roosevelt's plurality of 2,545,515 in 1904 and Mr. McKinley's plurality of 849,790 in 1900. It was only in the western states that the Republican majorities were seriously reduced; in the eastern states they were increased. The next House of Representatives will have 219 Republican members.—Ohio, Minnesota and Indiana, carried by Mr. Taft, elected Democratic governors. Missouri chose a Republican governor for the first time in more than thirty years.

**STATE AFFAIRS.**—The Democratic primaries in Georgia in June resulted in the defeat of Governor Hoke Smith, who had been chosen two years ago on a platform of railroad regulation and negro disfranchisement. A legislative investigation during the summer revealed many instances of cruel and inhuman treatment of convicts farmed out to various industries, and an extra session of the legislature in September passed a bill designed to abolish the convict lease system. The Georgia suffrage amendment passed by the legislature in 1907 (see RECORD of December, 1907, p. 757) was duly submitted to the voters of the state at the November elections and was ratified.—On August 7 the first Illinois primaries were held under the new radical measure that went into force on July 1, providing for direct nomination of the most important officials and strictly regulating party organiza-

tion and machinery.—At a special and extremely agitated session of the legislature in **Indiana** a county local option bill was passed on September 26.—In consequence of the death of Senator Allison of **Iowa**, on August 4, the Iowa legislature attempted to select a successor. No candidate was able to secure a majority, and the legislature adjourned until November 24.—The first trial of the **Kansas** primary law, providing for direct nominations and subjecting all party machinery to legal regulation was made on August 4. About fifty per cent of the total vote of the state was polled.—The legislature of **Louisiana** passed in June a high license bill and a measure abolishing race-track gambling.—At the elections held on September 14, **Maine** adopted a constitutional amendment establishing a system of initiative and referendum.—An elaborate amendment disfranchising negroes will be submitted to the voters of **Maryland** at the next state election.—The action of the **Massachusetts** legislature on June 11 in defeating a railroad regulation bill has left the way open for the merger of the Boston and Maine and the New York, New Haven and Hartford lines (see last RECORD, p. 362) unless the courts intervene.—The new constitution for **Michigan**, drafted by a convention in the winter of 1907-1908, was ratified at the November elections. The significant features are the larger autonomy given to local governments, the regulation of legislative procedure, the increase in the governor's power and the modified initiative.—A constitutional amendment establishing the initiative and referendum was adopted at the **Missouri** elections in November.—A similar amendment, pending in **North Dakota**, requires approval by a second legislative assembly before submission.—A special session of the **New York** legislature held in June abolished race-track gambling.—An election on the liquor question, held in **North Carolina** in May, resulted in an overwhelming majority for prohibition.—The national banks in **Oklahoma** have been compelled either to surrender their charters or to reject the terms of the new state law providing for the guarantee of deposits (see *supra*, p. 752).—At the **Oregon** election, held early in June, a large number of counties went "dry"; equal suffrage was defeated; and George C. Chamberlain was selected as candidate for United States senator, a result which imposes on a Republican legislature an obligation to confirm the popular choice by electing a Democrat.—Of the persons accused of fraudulent transactions in connection with the construction of the **Pennsylvania** capitol building (see last RECORD, p. 363) three have been convicted but have appealed; five have been acquitted; others are yet to be tried.—The "night riders" in Kentucky, Tennessee and other southern states (see last RECORD, p. 362) committed various depredations during the summer and autumn. On October 20 Captain Quentin Rankin, a prominent attorney, was hanged by the raiders at Walnut Log in **Tennessee**, and Colonel R. G. Taylor barely escaped with his life.—A conference of **New England** governors was held in October, and the following questions were considered: tree planting, the protection of lobsters, clams and other shellfish, the construction of highways and the uniform taxation of automobiles.

**MUNICIPAL AFFAIRS.**—As a result of an inquiry by the **Boston** finance commission six prominent officials of leading boiler and structural iron companies were indicted in August on a charge of conspiracy to defraud the city in bidding on competitive contracts.—The new three-cent fare on the street railways in **Cleveland**, Ohio, resulted in losses in May and June, but a surplus was shown in July. During the summer the street railway question greatly agitated the city, and in September an action was brought against the city of **Cleveland**, the Railway Company, the Municipal Traction Company, Mayor Johnson and the members of the City Council, declaring the Traction Company a fraud and asking for a receiver for the three-cent-fare road. On September 5, the municipal authorities decided to submit the franchise under which the Traction Company was operating to a popular referendum. The vote which was taken on October 22 resulted in a small majority against the franchise and, consequently, in a disapproval of Mayor Johnson's policy. The **Cleveland** Railway Company has now demanded from the Municipal Traction Company the return of the property.—At a special election held at **Kansas City**, Kansas, in June a proposition to establish commission government was defeated.—The inquest into the street railway systems of **New York City**, held under the auspices of the Public Service Commission (see last RECORD, p. 363), was concluded on May 22. The history of the Metropolitan Street Railway Company, the New York City Railway Company and the Metropolitan Securities Company was investigated, as far as the powers of the commission extended, and much material was accumulated for the use of the commission in the discharge of its duties. Criminal offences revealed by the inquiry were referred to the proper authorities. In June the Commissioners of Accounts presented the results of their investigation of Louis E. Haffen, president of the borough of the Bronx. Irregularities on the part of that official were estimated to have cost the city millions of dollars. The recount of the ballots cast in the mayoralty election of 1905, necessitated by Mr. Hearst's claim that the original count was fraudulent, was completed in July. It resulted in a net gain of 509 votes for Mr. Hearst and the confirmation of Mr. McClellan's election by a plurality of 2965. On July 1 Justice McCall of the Supreme Court decided that the reelection of John F. Ahearn by the Board of Aldermen to the presidency of the borough of Manhattan immediately after his removal by Governor Hughes (see last RECORD, p. 364) was legal. Charges filed against District Attorney William Travers Jerome by the minority stockholders' committee of the Metropolitan Street Railway Company were investigated during the summer by Richard L. Hand, acting under appointment of the governor. The inquiry resulted in the exoneration of the district attorney. In September a legislative committee began an investigation into the finances of the city and its methods of bookkeeping.—T. L. Ford, chief counsel for the United Railways, charged with bribing former Supervisor Coleman in connection with the vote on the franchise of the United Railroads in **San Francisco** (see last RECORD,

p. 364) was acquitted on May 2. Other indictments are pending against him. Abraham Ruef's trial, on the charge of having offered a bribe to ex-Supervisor Phillips in connection with an electric-road franchise, resulted in a disagreement of the jury. Against Ruef 111 indictments are still pending.

**THE TRUST PROBLEM AND THE RAILWAYS.**—The taking of testimony on behalf of the federal government in the proceedings looking toward the dissolution of the **Standard Oil Company** (see last RECORD, p. 364) was resumed in New York City on May 25 and continued (except for the summer adjournment) until September, when the hearing was removed to Chicago. On July 22 the \$29,240,000 fine imposed on the Standard Oil Company in 1907 (see RECORD of December, 1907, p. 760) was set aside by the United States circuit court of appeals for the district of Chicago. On August 21 a petition for a rehearing was filed on behalf of the government.—The charges brought by the federal grand jury at Jamestown, New York, against the Standard Oil Company (see last RECORD, p. 364) were sustained in the federal court at Rochester, the jury rendering a verdict against the company on June 12. Motion for a new trial was made at once.—The closing arguments of counsel in the action of the federal government against the **American Tobacco Company** (see last RECORD, p. 364) were made on May 22.—The hearings instituted by the federal government in the matter of the **Powder Trust** (see last RECORD, p. 364) began in October.—In May the federal government initiated proceedings in Philadelphia looking toward the dissolution of the so-called **Anthracite Coal Trust**. On October 7 the taking of testimony in New York was begun by United States examiner Gilchrist.—On June 5 the federal government began in the circuit court at Philadelphia an action against the seven great coal-carrying companies, *vis.* the Pennsylvania, the Reading, the Central of New Jersey, the Delaware, Lackawanna and Western, the Delaware and Hudson, the Erie and the Lehigh Valley railway companies, for violation of the **commodities clause** of the act to regulate commerce. On September 10 the court dismissed the suits against the companies, declaring the commodities clause drastic, harsh, unreasonable and a violation of the federal constitution, being contrary to the letter and spirit of the fifth amendment. On October 6 the court handed down an order allowing the federal government to appeal the case to the Supreme Court of the United States.—In the United States circuit court at Philadelphia, on May 23, the International Coal Mining Company obtained a verdict of \$12,013 against the Pennsylvania Railway Company for rebate discrimination.—In the federal district court at Chicago, on August 7, the Atchison, Topeka and Santa Fe Railroad Company was fined \$7000 for having paid an industrial concern a large bonus in the form of reduced freight charges for locating its plant on the company's line.—In May the federal government filed a bill in the United States circuit court at Boston against the New York, New Haven and Hartford Railroad Company for violation of the Sherman law in the formation of the merger with the Boston and Maine Railway Company and

in the absorption of local trolley lines.—During the summer the proposition of the railway companies to raise freight rates in the territory east of the Mississippi and north of the Ohio and Potomac Rivers aroused a strong protest on the part of shippers, but the matter was laid temporarily at rest by the announcement on the part of the railway companies that no steps would be taken by them until after the elections.—There was a lull in the **activities of the states** in prosecuting corporations for infringement of the anti-trust laws. The American Tobacco Company was fined \$1000 in June by a Kentucky court for violation of the law. The Massachusetts Supreme Court in May held illegal the action of the New York, New Haven and Hartford Railway in acquiring possession of several trolley lines within the state. Kansas, Missouri and Texas began proceedings in July to break up and drive out of the respective states a combination known as the **Lumber Trust**, which had been formed to raise the prices of lumber. In June James W. Osborne, appointed special deputy attorney-general by Governor Hughes, began proceedings against the **American Ice Company** and obtained four indictments against the corporation for acts in restraint of trade. In July Attorney-General Jackson brought an action to dissolve the company as an illegal combination.—In August the Alabama railroad commission filed with the Interstate Commerce Commission complaints against fourteen railway companies for having raised rates unreasonably by combination. About the same time similar complaints were filed on behalf of Texas, Georgia and Oklahoma. On September 3 Judge Vandeventer of the United States circuit court in St. Paul granted, on the application of several railway companies, an injunction restraining the Arkansas railway commission from interfering with the recent raising of rates and from enforcing the two-cent-fare law.

**LABOR AND CAPITAL.**—The Municipal Traction Company of Cleveland, Ohio (*cf.* MUNICIPAL AFFAIRS), began its career with a controversy with the Amalgamated Association of Street and Electric Railway Employees. It appears that the Cleveland Electric Railway Company had agreed, in case its franchise should be continued, to raise the wages of conductors and motormen and to adjust other grievances. The Municipal Traction Company however, which absorbed the Cleveland Electric Company, refused to recognize the agreement. The employees thereupon struck, and, in attempting to prevent the new concern from running its cars, the strikers cut wires, stoned cars and resorted to the use of dynamite. Mayor Johnson notified the strikers that he would keep order at all costs and run the cars as well. Efforts at arbitration were unavailing and, by the end of May, the strike was broken by the desertion of the men.—A serious strike of coal miners occurred at Birmingham, Alabama, in July and August, and in the accompanying disturbances several persons were killed. The prompt employment of troops by Governor Comer caused the labor leaders to give up the fight. During the summer there were extensive strikes of coal miners in Ohio and Indiana.—The strike of street-car workers in Chester, Pennsyl-

vania (see last RECORD, p. 369), continued to be attended with violence. In May several cars were dynamited; on September 1 twenty-two men, including several union leaders, were arrested on warrants charging them with this offence.—As a result of strikes and the closing of several mills of the International Paper Company in New England more than two thousand paper workers were thrown out of employment in August. In October it was reported that many of the strikers were accepting the terms proposed by the company, *vis.* five per cent reduction in wages, and that a few mills were opening.—On June 30 three agents of the Carpenters' Union in Chicago were sentenced to thirty days in jail for violating an injunction ordering them not to call strikes on buildings under construction.—Samuel Gompers, president of the American Federation of Labor, and other labor leaders were cited on July 20 by Justice Anderson of the Supreme Court of the District of Columbia to appear in court on September 8 to show cause why they should not be punished for violating an order issued by Justice Gould forbidding them to continue an alleged boycott against the Bucks Stove and Range Company.—The Georgia legislature enacted an important convict-labor bill (see *supra*, p. 759).

**THE RACE PROBLEM AND LYNCHING.**—The most serious race riot of the year occurred at Springfield, Illinois, on August 14-19. The immediate cause of the outbreak was said to have been an assault upon a white woman by a negro on the night of August 13, but bitter feeling had been accumulating for some time as the result of similar offenses, and especially in consequence of the murder of a white man by a negro. On August 14 a mob stormed the jail for the purpose of lynching two negro prisoners, but the sheriff was able to spirit them away in an automobile. A general race war then ensued: early in the morning of August 15 a negro named Hunter, charged with having fired on the whites, was hanged and his body riddled with bullets; in the afternoon of the same day an aged and respected negro, George Donegan, was hanged; several houses occupied by negroes were burned to the ground; and 4000 soldiers were called out to maintain order. As late as August 17 troops were fired on by rioters and attempts were made to destroy other houses in the negro quarters. The following day, however, a rally of the respectable citizens of Springfield guaranteed the restoration of order, and Governor Deneen felt warranted in withdrawing a portion of the troops. A grand jury was at once assembled to indict offenders, a large number of whom had been arrested, and it was stated on September 10 that 117 indictments had been returned. Seven deaths and a large number of injuries were reported to have been caused by the riot.—During the night of June 21-22, six negroes were taken from a jail in Hemphill, Sabine county, Texas; five of them were hanged and one was shot; and for a short time there was a reign of terror throughout the county.—On July 28, a negro boy eighteen years old, charged with criminal assault on a white girl, was burned to death by a mob in the public square of Greenville, Texas.—During the night of July 28-29, a negro charged

with criminal assault was taken from the jail in Lyons county, Georgia, and was shot to death by a mob.—On July 29, a negro in jail at Pensacola, Florida, for assaulting and mortally wounding a white woman, was taken out by a mob, after a desperate fight in which several men were killed, and was hanged in the public square.—On August 1, four negroes accused of having approved the recent murder of a white farmer by his tenant were hanged at Russellville, Kentucky.—In August a mob at Huntington, Long Island, attempted to batter in the jail and lynch a negro charged with assault, but were foiled by the authorities.—Late in September a number of **night riders** (see *supra*, p. 760) burned about twenty negro churches, schoolhouses and lodge buildings in Early, Baker and Calhoun counties, Georgia.—A negro charged with murder was shot by a mob at Younker, Georgia, on October 10.—On the same day and during a part of the following night an infuriated mob fought with the state troops and sheriff's deputies at Spartansburg, South Carolina, in an effort to break the jail and get possession of a negro charged with assaulting and slightly injuring a white girl. Several persons were wounded, but the authorities held the attacking party at bay.—On October 11, two negroes charged with shooting and fatally wounding a railway conductor were hanged by a mob at Lula, Mississippi.

### III. LATIN AMERICA

The **Argentine** Congress passed in August the government bill providing for the construction of two battleships of 20,000 tons and several destroyers, the total estimates for army and navy being set down at \$60,000,000, which the finance minister said could be paid out of ordinary revenue without fresh taxation or loans. Congress in September authorized the expenditure of \$27,000,000 for the improvement of the port of Buenos Ayres.—Dr. Guachalla was elected president of **Bolivia** in June.—A national exposition was opened at Rio de Janeiro to mark the hundredth anniversary of the opening of **Brazilian** ports, and constituted the first concerted effort to display the various resources of the country.—The **Chilean** budget for 1909 carried estimates of about \$75,000,000, a reduction of \$5,000,000 over the preceding year.—A law promulgated on August 11, to become operative on January 1, 1909, abolished the former political divisions of **Colombia** and divided the republic into thirty-four departments, each of which must pay its revenues into the federal treasury.—The Conservatives were generally successful in the **Cuban** municipal and provincial elections on August 1. On August 24 the national convention of the Conservative party nominated General Mario Menocal for president and Rafael Montoro for vice-president. The Zayista and Miguelista factions of the Liberal party united on September 3 in nominating José Miguel Gomez for president and Alfredo Zayas for vice-president. The date of the presidential election was set by the provisional government for November 14.—Revolutionary forces, said to have been equipped on United States soil, attacked several small towns in northern **Mexico** in June, released prisoners from



jails and robbed banks and post-offices, but were easily dispersed by government troops. Congress passed a new banking law on June 19 and in August effected an important tariff revision.—The withdrawal on July 4 of the candidacy of Señor Arias, the Constitutionalist leader in Panama and secretary of state under President Amador, assured the practically unanimous election on July 12 of Señor Obaldia as president.—On June 30, Dr. Emiliano G. Naveiro, vice-president of Paraguay, was proclaimed president, and after a week of fighting in the streets of Asuncion, the government troops were dispersed and President Ferreira and his ministers took refuge in the foreign legations. The new government gained general recognition throughout the country by the middle of July.—Señor Augusto B. Leguia, who was elected president of Peru in June, succeeded Señor Pardo on September 24.—General Ramon Caceres took the oath of office as president of Santo Domingo on July 1. (See also *supra*, pp. 750, 751.)

#### IV. THE BRITISH EMPIRE

**THE UNITED KINGDOM.**—Parliament adjourned on August 1. Of the various important measures promised by the government (see last RECORD, p. 371), only the Irish University Bill and the Old Age Pension measure were adopted. The former provides for the establishment by charter of new non-sectarian universities in Dublin and Belfast and the dissolution of the Royal University and of Queen's College, Belfast. The defeat of an amendment authorizing the erection of places of worship by private benefaction within the precincts of the universities irritated the Nationalists and the Irish bishops. The **Old Age Pension** law provides for pensioning citizens of the United Kingdom who are residents thereof for at least twenty years, being seventy years or more of age and qualified to vote, in accordance with a sliding scale based upon private income, ranging from five shillings weekly to those whose annual incomes are 20 guineas or less down to one shilling weekly to those whose incomes are between 27½ and 30 guineas. The measure differs from the old out-door relief only in that the funds are provided by the central government, are more certain and slightly larger and carry with them no civil disability. The administrative machinery consists of local committees, chosen by councils of boroughs with a population of 20,000 and over and by county councils for the remaining territory, coöperating with pension officers appointed by the Treasury Department, from whose decisions there is no appeal to the law courts. The pensions are expected to cost \$35,000,000 the first year, and the government declares that this is only a beginning. The bill occasioned a lively debate between the two houses, the Commons claiming that an amendment of the Lords limiting the payment of pensions to seven years infringed their privilege of originating financial measures, and the amendment was ultimately withdrawn. Among the measures rejected or tabled was the long-debated Daylight Saving Bill, which provided for setting forward the clocks throughout the Kingdom by twenty minutes

on each of the four Sundays in April and then back again a corresponding amount on each of the four Sundays in September. Parliament reassembled on October 12 and proceeded at once to debate the Licensing Bill, which had called forth several hostile demonstrations during the summer on the part of the liquor interests.—The reassembling of Parliament was the occasion for a particularly spectacular demonstration by several thousand "*suffragettes*" who attempted to mob the Parliament Buildings. Seventeen of those arrested were convicted on October 22 of disorderly conduct and sentenced to terms of imprisonment varying from three weeks to three months.—Some of the Protestant societies having invoked an old law against the celebration of Roman Catholic worship outside churches, the government felt itself constrained to prohibit the carrying of the Host through the streets on the occasion of the Eucharistic Congress in September. The archbishop of Westminster urged Catholics to form societies with a view to compelling Parliament to remove the remaining *Catholic disabilities*.—The Miner's Federation voted in June to affiliate with the Socialist Labor Party.—The government took evidence in August on the question of Welsh disestablishment.

**CANADA.**—The Dominion Parliament concluded its session in July. The measures passed included a Civil Service Reform Bill; an Old Age Annuities Bill; prohibition of the sale of tobacco to boys under sixteen; a change of provincial boundaries, by which Manitoba secured Fort Churchill and York Factory on Hudson's Bay, Ontario received a large northward extension and Quebec obtained the Canadian part of Labrador; and an Immigration Bill, providing among other things that only those Chinese may be admitted into the Dominion as students who have been *bona fide* students in China and who pay a poll tax of \$300, such amount being refunded on the completion of a year's study in Canada. The House of Commons pledged itself to financial support of the "all-red" steamship project. The government, in order to secure the passage of the budget, had to drop its election-law amendment providing that the voters' lists in Manitoba and British Columbia be prepared by specially appointed federal officers.—An order in Council decreed in June that every *Asiatic immigrant* must have at least \$200 to enter the country. Awards for compensation to Chinese and Japanese for losses caused by the Vancouver riots of last September raised the cost of that outbreak to \$50,000.—The campaign for the election of a new Dominion Parliament, the eleventh since the confederation in 1867, was opened in August. Premier Laurier, the Liberal leader, made his appeal to the electors to be enabled to complete the work begun under his administration, notably the building of the National Transcontinental Railway, and maintained that his government had given Canada twelve years of unexampled prosperity, had turned the tide of immigration to that country, had promoted Franco-British unity and had given the Dominion a new status not only in the empire but throughout the world. Mr. C. L. Borden, the leader of the opposition, made the fight

almost wholly on questions of electoral purity and administrative reform. The elections, held on October 26, resulted in the Liberals being returned to power, though with a majority reduced from 66 to 50. Provincial elections in Ontario in June were favorable to the Conservative premier, Mr. Whitney. In Quebec, in the same month, the Conservative minority gained ten seats. The Liberals won the Saskatchewan elections in August.—Six towns in **British Columbia** were destroyed by forest fires early in August, involving a loss of \$20,000,000.—The government of **Ontario** arranged in August for the construction of lines transmitting electric power from Niagara to neighboring cities.—**Quebec** celebrated its tercentenary with great enthusiasm in July. The Prince of Wales, Admiral Jaureguiberry of France, and Vice-President Fairbanks of the United States participated officially and exchanged felicitous greetings on the public dedication of the battlefield of Montcalm and Wolfe.

**AUSTRALIA**.—The Commonwealth Parliament adjourned for a three months' recess on June 4 after passing the Harbor and Coast Defence Bill, carrying expenditures of \$1,250,000, and the Old Age Pension Bill, by which all indigent persons over sixty-five years of age who have resided in the Commonwealth for twenty years will be entitled to a pension of \$2.50 weekly. Pensions are also to be given to persons over sixteen years of age who are permanently incapacitated. This measure is expected to cost \$9,000,000 annually.—The **Federal High Court** gave judgment in May in favor of the Commonwealth in the dispute which arose a year ago (see **RECORD** of December, 1907, p. 767) with the authorities of New South Wales over the question of duty on a quantity of wire netting imported by the state government. In June the court declared unconstitutional the "new protection" act, levying excise duties on goods manufactured in Australia, in the production of which fair and reasonable wages have not been paid; and on August 4 it declared unconstitutional the registration of a trade-union label as a trade mark.—Lord Dudley, the new governor-general, who made his official landing and took the oath of office at Sydney on September 9, opened the Commonwealth Parliament on September 16. The three chief measures of the ministry were the determination of a site for the capital, the establishment of compulsory military training and a constitutional amendment legalizing the "new protection" duties.—The visit of the American fleet (see *supra*, p. 752) increased popular agitation in favor of the maintenance of an Australian navy.—Sir T. D. Gibson-Carmichael was appointed governor of **Victoria** in June.—The government program of **Western Australia**, as announced in July, embraced the founding of a university and of a system of public secondary schools, amendments to the liquor laws and the construction of four hundred miles of railways.

**NEW ZEALAND**.—The provisions of the **Arbitration Act** having proved inadequate to adjust various labor disputes, the government in September proposed two important amendments: first, retention by the em-

ployers of twenty per cent of the workmen's wages until any fines that may have been imposed by the conciliation board shall have been paid, and second, substitution for the magistrates on the present boards of two salaried conciliation commissioners, under whom each side will appoint three assessors to make the final award.—The press reported a rapid growth of popular interest in the ideas of compulsory military training and the maintenance of a navy.—Parliament in October increased the Dominion's annual subsidy to the imperial navy from \$200,000 to \$500,000.

**SOUTH AFRICA.**—The movement towards federation has assumed definite form. An intercolonial conference of official representatives, held at Pretoria May 4 to 15, adopted the principle of closer union and proposed that a convention be organized consisting of twelve delegates from Cape Colony, eight from the Transvaal, and five each from Natal and Orange River Colony, provision being made also for the admission of Rhodesia. The proposed National Convention assembled at Durban on October 12 and proceeded to draft a federal constitution to be submitted to the several colonies for ratification. The smaller states naturally distrusted the expected compromise between representation by states and representation by population, but the only serious opposition to federation seemed to be in Natal.—The finances of Cape Colony were reported to be in a seriously disorganized condition, with a deficit of \$4,500,000. The legislature in July adopted the government's measures for meeting the deficit: extension of the income tax to all incomes above \$250, reduction of civil servants' salaries by five per cent and imposition of a stamp tax.—Natal adopted in September a graduated tax on individual incomes, with a maximum rate of five per cent on incomes over \$5000. The trial of Dinuzulu, the native chieftain, was opened at Greytown late in October before three special British commissioners.—The first Legislative Assembly of Orange River Colony was opened on May 13. All the proceedings were bilingual, first in English, afterwards in Dutch. An Education Bill was adopted in July, placing the two languages on equal footing in instruction, the choice being left to the parents in each district. A bill authorizing compulsory military training was temporarily tabled.—The passage by the Rhodesian council of a registration act similar to that of the Transvaal caused Indian demonstrations and appeals to the British government for protection.—A Civil Service Bill published in the Transvaal on May 9 aroused English opposition on account of the extensive appointive power vested in the Botha ministry. Parliament, which was in session from June 15 until August, was concerned chiefly with a program of public works and the establishment of a land settlement board. There was a recrudescence in September and October of Indian opposition, in spite of some liberal amendments to the registration act, and the Indian leader, Dr. Gandhi, was arrested and deported.

**INDIA.**—An uprising of tribesmen along the Afghan frontier was suppressed in May and June by General Willcocks, with a British loss of 52

killed and 206 wounded. The ameer of Afghanistan indignantly denied the charge that he had incited the revolt.—Mr. Tilak, the leader of the extreme Nationalists, was arrested in July on a charge of criminal libel and sedition, based on an article in his newspaper, and was condemned, by seven votes to two in a court in which the majority of the judges were British, to a fine of \$330 and deportation from the country for six years. Demonstrations of sympathy for Mr. Tilak resulted at Bombay in serious riots and collisions with the troops. Business was at a standstill for several days. Numerous other editors and leaders of less importance were sentenced in August and September to various terms of imprisonment or to deportation for similar offences.—The total number of persons in receipt of state aid throughout India has steadily fallen until, on October 15, it was 48,000.

**OTHER DEPENDENCIES.**—The legislature of **British Guiana** revised the tariff in September and granted preferential treatment to the other members of the Empire.—The legislature of **Newfoundland** was dissolved in September and new elections were ordered for November 2. (For Egyptian affairs, see *infra*, p. 776.)

#### V. CONTINENTAL EUROPE

**FRANCE.**—**Parliament** closed its session on July 13. Only one important bill passed both chambers, that for the purchase of the Western Railway by the state. The Old Age Pension Bill (see last RECORD, p. 376) passed the Deputies, but the Senate was unable to agree with the lower chamber as to ways and means. The Income Tax Bill was also left over until the autumn session. The estimates for 1909 showed an increase of \$12,000,000 in expenditures, but an item for the construction of two battleships of 20,000 tons was suppressed by the budget committee of the Deputies.—M. Thomson, minister of marine, resigned in October, in consequence of a vote of censure by the Deputies, and was succeeded by M. Picard.—A demonstration by Paris workmen in the building trades on July 30 was attended by collisions between the crowd and the troops. In the fighting at Villeneuve Saint Georges four civilians were killed and fifteen wounded, and sixty-nine soldiers were injured. The general strike decreed by the Confederation of Labor as a reply to the arrest of its leading officials by the government proved an utter fiasco.—The translation of the body of Émile Zola from Montmartre to the Panthéon on June 4 was attended by President Fallières, the cabinet officers, Major Dreyfus and a great assemblage, partly friendly and partly hostile. At the close of the ceremony an attempt by a reactionary journalist named Grégori to assassinate Major Dreyfus threatened to revive the old strife. Grégori was unanimously acquitted in September and the incident was closed. The Chamber of Deputies, shortly after reassembling in October, condemned by 438 votes to 47 the campaign of the anti-Dreyfusards against the decision in the case of Major Dreyfus handed down by the Court of Cassation in 1906.—The **Vatican** forbade in May the formation of ecclesiastical mutual aid socie-

ties, and the property which might have been handed over to such organizations (see last RECORD, p. 376) was therefore given to public charitable institutions.—The **Paris** commune petitioned the government in July for the transfer to the city of the fortifications of Paris with a view to the construction of an outer circular boulevard and several public parks.—The **wine growers** were reported in considerable distress as the result of practically the total failure of the champagne vintage.

**GERMANY.**—The imperial government announced in September that the greatly increased expenditures would necessitate the establishment by the Reichstag of new sources of revenue.—The government decided in August, according to the *Cologne Gazette*, to admit women who are subjects of the empire to the universities on the same footing as men, but to require women of other countries to secure special permission from the minister of public instruction before matriculation.—A lively debate on the question of refusing to vote supplies attended the **Socialist Congress** at Nürnberg in September and showed tense feeling between the Prussian delegates and those from South Germany.—General Keim announced in July the secession of 140,000 members from the **Navy League**.—Maximilian Harden succeeded on a technicality in having the sentence passed on him for libeling Count Kuno von Moltke (see last RECORD, p. 377) reversed on appeal. The perjury trial of Prince Eulenburg, which grew out of the **Harden-von Moltke** litigation, was begun on June 29 but adjourned two weeks later on account of the prisoner's state of health. He was eventually released late in September.—In the June elections in **Prussia** seven Socialists were elected to the Landtag. No Socialist had ever before secured a seat in that assembly. The speech from the throne at the opening of the Landtag on October 20 indicated the intention of the government to introduce a modification of the existing antiquated three-class system, which has been the object of much animadversion in recent years.—Grand Duke Frederick of **Mecklenburg-Schwerin** announced on May 12 his intention of granting a constitution to his duchy, the only German state without constitutional government.

**AUSTRIA-HUNGARY.**—The golden jubilee of the emperor's accession was celebrated with great popular enthusiasm on May 7.—The **Delegations** assembled in October and approved the increase of the pay of army officers and the regulations for the administration of Bosnia and Herzegovina (see *supra*, p. 746).—The **Austrian** government carried on negotiations throughout the summer for the purchase of five railways, making a total of 17,836 kilometres of line owned by the state as against 4000 remaining in private hands.—Dr. Wahrmund, professor of canon law at Innsbrück, who had earned the hostility of the papal nuncio, resumed his lectures on June 1, relying on Liberal support, but the Clerical and Christian Socialist leaders, after several student riots, closed that university temporarily as well as the universities of Vienna and Gratz. The trouble was ended by transferring Professor Wahrmund to a chair at Prague.—The **Hungarian** government

presented bills for free instruction in the national schools, for state support of private and religious schools, and for the establishment of agricultural secondary schools for children between thirteen and fifteen years of age.

**RUSSIA**—The Duma took a recess from July 11 until October 28. Its acts before adjournment included approval of the budget, issue of an internal loan of \$100,000,000, grant of a subsidy for steamship service between Vladivostok and China and Japan, and several measures against drunkenness. The Council of the Empire overruled the Duma in voting the construction of four battleships and in rendering members of the Constitutional Democratic and other unrecognized parties ineligible to office in the zemstvos or municipal councils.—The Missionary Congress of the Orthodox Church, sitting at Kieff in August, protested against freedom of conscience and recommended that persons not of the Orthodox faith should be forbidden to acquire land in the western provinces. The Holy Synod, contrary to the advice of its procurator, M. Isvolsky, as well as of Premier Stolypin, caused to be read in all the churches of Russia on September 6 an appeal to the faithful to abstain from celebrating Count Tolstoy's eightieth birthday, which fell on September 10.—**Army** reforms were inaugurated in August. Grand Duke Nicholas was relieved of command and all the military departments were subordinated to the ministry of war.—Because the minister of public instruction was empowered to forbid women to attend *university* lectures in future, the rector of the University of St. Petersburg resigned in September. In October there were several student strikes at St. Petersburg and at Moscow against governmental interference.—Considerable interest was aroused during the summer in the case of the patriot Nicholas Tchaikovsky, who had been detained several months in prison without trial on charges based on revolutionary acts alleged to have been committed thirty years previously. The government released him on October 26 on bail of \$25,000, raised largely by his friends in England and the United States.—Serious post-office frauds were reported from Moscow.—M. Stolypin stated in the Duma on May 18 amid applause that his government had no purpose to infringe the constitutional privileges of Finland, but that the laws of the grand-duchy and of Russia should be coordinated wherever the empire at large was affected. The parties in the new Finnish Diet, which was elected in July and met on August 3, showed the following numbers: Swedish party, 25; Young Fennoman, 25; Old Fennoman, 54; Social Democratic, 83; Agrarian, 9; Christian Workmen, 2. All parties were united on the question of resisting Russian aggression, and the Young Fennoman president of the preceding Diet was reelected.

**ITALY AND THE HOLY SEE**—Agrarian agitation in Parma resulted in the declaration of a strike on May day involving some 40,000 workmen. Largely through ecclesiastical effort, the Agrarian Association, representing the landowners, reluctantly consented in June to meet representatives of the Chamber of Labor, but the strike was not ended until the latter part of

July and then only after considerable rioting and great suffering.—The government recommended in May the appropriation of \$35,000,000 for land and sea fortifications on the Austrian and French frontiers and an increase of \$1,500,000 in the army budget for the purpose of raising the salaries of lower officers.—The king formally inaugurated the International Institute of Agriculture at Rome on May 23.—Signor Nasi, the ex-minister who recently underwent a term of imprisonment (see last RECORD, pp. 380, 381), was reelected deputy for Trapani by popular vote in July, obtaining 3000 votes against 150 cast for his opponent. He declared that he would work for home rule in Sicily.—An important papal decree, which became effective on November 1, completely reorganized the Roman Curia and the various congregations. Among other changes, the congregation of the Propaganda was deprived of jurisdiction over Great Britain, the United States, Canada and Holland.

**OTHER EUROPEAN STATES.**—Elections on May 24, in connection with the biennial retirement of half the members of the Belgian chambers, resulted in reducing the Clerical majority from twelve to eight, the Socialists gaining five seats. The opposition had a popular majority of 20,000, but the system of plural voting saved the Clericals. The Deputies came unexpectedly to a vote, August 20, on the Congo treaty and the colonial law, carrying the one by a majority of 29 and the other by a majority of 42. The Senate adopted the former by 63 votes to 24 on September 9 and subsequently ratified the latter by 66 votes to 22. The net result was that Belgium took over the Congo, including the former crown domain with all its assets and liabilities, and in return, in addition to agreeing to pay certain subsidies, Belgium created two special funds, one of \$9,000,000, to be expended on public works in Belgium, and the other of \$10,000,000, to be paid to the king and spent by him, subject to ministerial responsibility, on objects connected with the colony.—General elections in Bulgaria on June 7 gave the Democratic party then in power 170 seats out of a total of 203. Prince Ferdinand opened the new Sobranie on June 28.—A joint commission of members of the Danish Rigsdag and of the Icelandic Althing reported in May a bill to regulate the union between Denmark and Iceland, by which Iceland is to be recognized as a free, autonomous and independent country united to Denmark by a common king and by common affairs, thus forming with Denmark a state federation, the united Danish Empire; a supreme court is to be established in Iceland; fisheries are to be nationalized; the Danish flag is to be retained in foreign relations but the Icelandic flag used in Iceland; and the Icelandic treasury is to contribute toward the king's civil list. The bill was cordially received in Denmark but evoked some unfavorable criticism in Iceland. It goes to the Icelandic Althing in the autumn. A printers' strike prevented the appearance of most of the Danish newspapers for a week in August. The arrest of M. Alberti, ex-minister of justice, charged with forgery and embezzlement of funds to the amount of \$5,000,000, created a great scandal at Copenhagen early in



September and eventually caused the resignation of the premier, M. Christensen. M. Neergaard formed a new cabinet on October 15.—M. Tomonovitch, the Montenegrin premier, charged the National and the Democratic party leaders with plotting against the reigning family. The treason trial, which was begun at Cettigne on May 25, brought out some sensational evidence by a Bosnian journalist, who implicated the crown prince of Serbia in the manufacture of bombs to be used against Prince Nicholas. On June 27 six of the accused were condemned to death, three to life imprisonment, forty to detention for periods ranging from two to twenty years, and two were discharged. The implication of the Servian prince was officially denied at Belgrade.—King Manuel II of Portugal took the constitutional oath before the Chamber of Deputies on May 6. Many loyalist demonstrations were reported in the course of the summer. The Cortes, after protracted debates, approved the budget, which showed estimated revenue of \$79,000,000 and expenditure of \$80,000,000, and fixed the king's civil list at \$1100 a day. The minister of finance was severely attacked in June for advances made to the late king and other members of the court. The Cortes in August passed a tariff bill empowering the government to double the existing duties on articles from countries which differentiate against Portuguese goods, and rejected a measure to expel the religious orders from the kingdom.—The elections for the Servian Skupshtina in June returned 81 Ministerialists, 46 Extreme Radicals, 16 Liberals, 8 Progressists and one Socialist. The result was a keen disappointment to the government.—The Spanish Cabinet in June restored the constitutional guarantees in the provinces of Barcelona and Gerona. The Cortes authorized an internal loan of \$32,000,000. Disorders in Catalonia late in June were said to be the result of separatist agitation in that province. The queen gave birth to a second son on June 18.—The Swedish Riksdag, which closed in June, passed measures for the purchase by the state of the Svapavaara mines, the electrification of the state railways, and the establishment of a special governmental department for water falls and waterpower.—In Switzerland on July 5 a law forbidding the manufacture, sale or importation of absinthe was adopted by a popular vote of 236,232 to 137,702. The National Council, after a long debate, adopted a bill on October 7 providing for the insurance of workmen against sickness and accident.—In Turkey the liberal or Young Turk movement has been rapidly gaining strength; and on July 24, alarmed by repeated mutinies in the Macedonian army and urged by the Committee of Union and Progress, an influential group of the Young Turk party, the sultan decreed the restoration of the suspended constitution of 1876, proclaimed a general amnesty and ordered parliamentary elections for November 1. Great popular rejoicing followed. Said Pasha, the grand vizier, resigned, together with the other ministers of the old régime, and most of the palace officials fled from the country. Kiamil Pasha, a liberal, was entrusted with the formation of a new cabinet, and the Committee of Union and Progress assumed practical control of the government. The

sultan swore fidelity to the constitution on the Koran, agreed to pay for new Houses of Parliament from his civil list, and announced that the permanent organization and attributes of the various ministries would be left to Parliament. On August 16 the Committee of Union and Progress published a program for the new government, embodying military and naval reorganization, an economical budget, free education, and recognition of equality of rights for all Ottoman subjects without distinction of religion or race.

#### VI. ASIA AND AFRICA

**TURKEY-IN-ASIA**.—The Hedjaz railway was opened on September 1, establishing direct communication between Damascus and Medina.

**PERSIA**.—The cabinet resigned on May 2 and, although reinstated on the 15th at the request of Parliament, lost its authority, by the shah's decree, to irresponsible members of the court clique. The province of Azerbaijan, following the leadership of Sata Khan, protested against the shah's act and declared itself autonomous. Great disorder ensued, attended by loss of life and property. Thousands of armed Nationalists rallied to the protection of Parliament at Teheran, but the shah prevailed upon Parliament to disperse them in June. The shah then executed a *coup d'état*. On June 22 he forbade all publications and on the 23d dissolved parliament by force and proclaimed martial law. Teheran was easily controlled by the royalist troops, but the anti-royalists under Sata Khan occupied Tabriz and in September defeated the government troops sent against them. Negotiations carried on through British and Russian intermediaries amounted to little; the anti-royalists refused to disarm until Parliament should be called together again, and the shah refused to renew the constitution until the rebels in Azerbaijan should submit. The shah late in September ordered the convocation on November 15 of a "trusty and pious" Mejliss.

**CHINA**.—The government in June appointed French advisers to the ministers of war and communications and established a college at Peking to train Chinese for the maritime customs service.—A constitution was promulgated on August 27, modeled, broadly speaking, on that of Japan. It contemplates the establishment of a representative parliament. It vests in the sovereign the right of promulgating laws; the convocation and dissolution of Parliament; the command of the army and navy; power to make war or peace, to receive and appoint ambassadors, to proclaim martial law and to issue pardons; the appointment of judges and the right of raising funds when Parliament is not in session and of fixing the expenses of the imperial household. Members of Parliament are not "to speak disrespectfully of the court nor slander others." An appended bill of rights states: "Officers and people who keep within the law will have freedom of speech, of the press and of assembly; they shall not be liable to arrest except as prescribed by law; they shall not be disturbed without cause in their possession of property nor interfered with in their dwellings; and they have the obligation to pay taxes and render military service and the duty of obedience to the law of the land." The constitution was ac-

accompanied by an elaborate program of political, social and economic reforms, which the government plans to put gradually into force year by year until in 1917 the entire constitution and all the reforms become fully effective.—The government monopoly of the sale of opium was replaced in October by a licensing system.—The Dalai Lama, who left Tibet at the time of the British occupation, was received with great honor at Peking in September, and settled there, at least temporarily. It was reported that he offered some opposition to the Chinese policy in Tibet.

**JAPAN.**—The government announced in June an improvement in the ~~financial~~ condition and called attention to a surplus for the fiscal year just closed of \$31,000,000.—The cabinet resigned on account of the ill health of Premier Saionji and, on July 14, a ~~new~~ cabinet took office, with Marquis Katsura as prime minister, Count Komura as minister of foreign affairs, General Terauchi as minister of war, and Admiral Saito as minister of marine. The main features of the new government's program of financial retrenchment, as published in September, included the extension of the six years' program of armaments to eleven years, abstention from all loans during that period, increase of yearly redemption of the national debt to a minimum of \$25,000,000, curtailment of expenditures to the amount of \$100,000,000 and postponement of the proposed international exposition at Tokio from 1912 to 1917.—The cruiser Matsushima was sunk early in May, in consequence of an explosion on board, and over two hundred lives were lost.—The ~~Formosan~~ trunk railway, 334 miles in length, was opened on October 25.—Prince Ito, the Japanese resident-general in ~~Korea~~, stated at a banquet on May 17 that the object of Japanese occupation was to enable the Koreans to secure their independence in the future and become the allies of Japan. All property controlled by the Korean imperial household was transferred to the state in June, and at the same time the power of appointing local officials was withdrawn from the central government and conferred upon provincial inspectors. New law courts were opened in July with Japanese legal experts on the bench to administer the new codes.

**EGYPT.**—The Egyptian Liberals and Nationalists were deeply stirred by the news of the Turkish revolution (see *supra*, p. 774), and it was reported in October that the Party of Constitutional Reform was losing prestige on account of its subservience to the court and that the growing Party of the People was showing bitterness against the khedive as well as against the British. Several petitions were presented to the khedive for the grant of a constitution.

**ABYSSINIA.**—Emperor Menelek has named as his successor his grandson Lidj Eyassu.

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